SENATE—*Thursday, November 4, 1993*

(Legislative day of Tuesday, November 2, 1993)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable BARBARA BOXER, a Senator from the State of California.

PRAYER

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

Let us pray:

Thus saith the Lord, What iniquity have your fathers found in me, that they are gone far from me, and have walked after vanity, and are become vain?—Jeremiah 2:5.

Eternal God, sovereign Lord of history, the question of the prophet Jeremiah is timely. One translation quotes it: Why have you forsaken me for hollow gods and become hollow souls?

We have relegated reverence for God to a religious issue, and it is infinitely more. It is the root of virtue, of morals and ethics and values. When God is not reverenced, morality becomes relative—whatever feels good. Absolutes are abandoned, and there are no criteria for values. Anything goes.

Patient God, awaken us to the fact that our Founding Fathers had a reverence for God which generated their courage and vision and virtue. It was their reverence for God which stimulated victory in the Revolutionary War and established the greatest nation in history. Restore to us the faith of our fathers which is the mother of virtue and national strength.

In the words of Samuel Adams, "He, therefore, is the truest friend of the liberty of his country who tries most to promote its virtue * * * if we should most truly enjoy the gift of Heaven, let us become a virtuous people."

We pray in His name who is the Way, the Truth, and the Life. 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, November 4, 1993.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

Mrs. BOXER 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 consideration of morning business not to extend beyond the hour of 9:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Chair, in her capacity as a Senator from California, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCAIN. Madam 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. MCCAIN. Madam President, I ask to address the Senate in morning business. The Senate is in morning business?

The ACTING PRESIDENT pro tempore. The Senate is in morning business until 9:30.

The Senator from Arizona [Mr. MCCAIN] is recognized.

Mr. MCCAIN. I thank the Chair.

(The remarks of Mr. MCCAIN pertaining to the introduction of S. 1618 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The ACTING PRESIDENT pro tempore. The Senator from South Carolina is recognized for 5 minutes.

NORTH AMERICAN FREE-TRADE AGREEMENT

Mr. HOLLINGS. Madam President, the Constitution speaks very clearly as to the primacy of Congress in trade matters. The Constitution, article I, section 8, expressly states that the Congress shall regulate foreign commerce. Yet, Congress deliberately restricted its role with regard to the North American Free-Trade Agreement by enacting fast track legislation—legislation that said NAFTA would not be subject to amendment by Congress. So we in Congress are prohibited from amending NAFTA. Yet, each day now we see the executive branch effectively amending NAFTA in their all-out effort to pick off votes in the House. The administration is effectively amending NAFTA with regard to sugar imports from Mexico, citrus imports, peanut imports and more. I quote from this morning's Washington Post.

"It's a quid pro quo," said the top negotiator of the administration's NAFTA lobbying team. "We are not going to do this unless it is going to deliver a significant number of votes."

So, yes, the executive branch, the President can wheel and deal with the lobbyists, effectively amending NAFTA—with Mexico's complicity and agreement—with regard to citrus, sugar, peanut butter, flat glass, wine, appliance exports, you name it. They just amend NAFTA willy-nilly to pick up a vote here and pick up a vote there. So they are continually amending. And now you see the reason this South Carolina Senator so vigorously opposed that fast track procedure.

Meanwhile, Madam President, the administration's dissembling and misrepresentation continue unabated.

Earlier this week, at a NAFTA pep rally attended by numerous former secretaries of State and Treasury, the President said, "Look, if Congress votes NAFTA down on the 17th of November, if I were the Prime Minister of Japan, I would order my finance minister to see the President of Mexico on the 18th of November."

Well, heavens above, the finance minister of Japan has already been to Mexico. The fact of the matter is President Salinas' children are enrolled in a special Japanese language program in school. The Mexican elite knows exactly where their economic future lies. They would love to have Japanese investment in Mexico; they have courted it. But Japan has been reluctant to invest in Mexico. Japan says, look, Mexico's consumer market is smaller than the consumer market in one United States city, Los Angeles. What we, Japan, are interested in is the richest consumer market in the world in the United States of America.

Less than 10 percent of the Mexican population has enough discretionary income to purchase imported consumer goods. Japan said, no, our interest is the U.S. consumer market. So if Mexico gets NAFTA, the Japanese will gain the investment security they need to set up plants in Mexico to produce for the United States market.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

This Japanese game plan is pointed out very dramatically in the Washington Post of Tuesday, November 2, in an op-ed titled "NAFTA: The Japan Card," by Harley Shaiken and SANDER LEVIN, our distinguished congressional friend on the other side.

I ask unanimous consent this article be printed in the RECORD.

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

NAFTA: THE JAPAN CARD

(By Harley Shaiken and Sander Levin)

The ever-shifting sands of the debate over the North American Free Trade Agreement have shifted again. Proponents of NAFTA now argue that if the United States doesn't strike a deal with Mexico, Japan will.

Facing difficulties selling NAFTA on its merits, the agreement's supporters are now trying to play the Japan card. At a White House event last month, the message was that rejecting NAFTA would spur large Japanese investments south of our border and a flood of Japanese products coming through the "back door" from Mexico. Lee Iacocca is even more blunt, asserting that "the Japanese think NAFTA is a bad deal because it's good for us and it's bad for them."

Are these fears realistic? In fact, this argument stands reality on its head. The Japanese have more to gain with NAFTA than without it and are less likely to become a major presence in Mexico if the present agreement is voted down.

Rather than being poised to rush into Mexico in the wake of a no vote, Japanese firms are waiting for NAFTA to pass before deciding on major new investments. The reason is simple. Japan is far more interested in sales to the United States than in entering the small Mexican market. Japanese companies would like to use a Mexican production base to supply the U.S. market if investment security and low tariffs are guaranteed. NAFTA provides those guarantees. Moreover, Japan could ship more goods without exacerbating trade frictions, since Sony televisions or Nissan cars made in Mexico and sold in the United States don't add to Japan's trade surplus. They are charged to Mexico's account.

With or without this agreement, Mexico's primary trading partner will remain the United States. In the first six months of 1993 more than 80 percent of Mexico's exports and 70 percent of its imports involved the United States. In contrast, Japan accounted for about one percent of Mexico's exports and 5 percent of its imports. Despite a far smaller volume of trade, however, Mexico's trade deficit with Japan was $1.3 billion, more than half the size of Mexico's deficit with the United States.

This ballooning deficit raises a critical point: Mexico can offer Japan increased access to the Mexican market but is unlikely to gain better access to the Japanese market in return, as the United States and almost all other countries in the world can attest. If Mexico is interested in rapidly increasing its trade deficit, then trade with Japan certainly offers possibilities, but it is highly unlikely that one-way trade is Mexico's goal. Moreover, Mexico cannot guarantee access for the Japanese to the U.S. market without NAFTA, diminishing Japan's interest in Mexico.

While its argument that Japan will strike a deal with Mexico is plainly wrong, the Clinton administration's more aggressive policy toward Japan is right on target. But the more the administration pursues this policy, the more the question is raised: If the failed trade policies of the '80s teach us to get tough in creating a more level playing field with Japan, why do they not counsel us also to get realistic in dealing with the unlevel playing field confronted in integrating our economy with Mexico?

In the '80s the United States went through a process of denial that there was a trade problem with Japan. A chorus of academia, media and others sang the "free trade" liturgy and dismissed any criticism as mere protectionism. This ideological onslaught polarized the debate and deprived the nation of the honest evaluation of trade policy that was needed.

Yet, with respect to Mexico we are going through the same process of denial that we went through with Japan in the '80s. True, the source of the unlevel playing field is different—with Japan it was government promotion of informal trade barriers and exclusionary corporate sourcing practices, while in the case of Mexico it is a government policy of holding down wages and denying labor rights in order to attract investment. But while the source is different, the effect can be much the same. U.S. business and workers are forced to make a "Pickett's charge" on a badly tilted playing field.

The way to judge NAFTA is on the merits of the agreement itself, not on the specter of Japanese involvement. In fact, the deployment of the Japan argument at this late date indicates that supporters are running out of plays. Ironically, bringing up Japan underscores the similarities between the failed Japan policy of the '80s and the flawed Mexico policy embodied in NAFTA. Playing the Japan card does not remedy the flaws in the present agreement and will not save NAFTA in the House.

Mr. HOLLINGS. So, with regard to NAFTA, I hear a swooshing sound. It is not just the sucking sound of jobs going to Mexico, Madam President. It is also the swooshing sound of investment pouring into Mexico from Japan, Korea, Taiwan, the People's Republic of China and so on. They are all poised to build plants in Mexico so they can export duty-free into the United States market.

Madam President, I note that Mrs. Linda J. Wachner sent me a tie yesterday with a letter advising, "Don't tie the economy in knots. Vote 'yes' on NAFTA." Mrs. Wachner writes in her letter, "The NAFTA will allow Warnaco and our more than 7,000 workers to produce even more ties in New York," on and on and on, in the different States.

Now, typically when you examine these kinds of gifts, you see they are made in Taiwan, they are made in Hong Kong, they are made in the People's Republic of China, and so on.

Sure enough, the tag on this particular tie says, "Hathaway, made in U.S.A. of imported fabric." This is exactly the point of our opposition to NAFTA right here. These ties should be distributed by opponents, not supporters, of NAFTA, because they illustrate the flight of U.S. textile jobs to other countries. Opponents of NAFTA ought to be giving out these ties, to tell you the truth, because those 7,000 workers referred to by Mrs. Wachner are not going to have job security for long. How much do you think it costs to assemble these ties in New York? And how much does it cost to assemble these ties in Mexico? In Mexico there is no free trade or free press. More to the point, in Mexico there is no minimum wage, no work place safety, no environmental safeguards, no plant closing notice, no parental leave, no Social Security, no unemployment insurance, and so on—the whole range of mandates this Congress has imposed on manufacturers operating in the United States. So those 7,000 jobs referred to by Mrs. Wachner are at risk if NAFTA is passed. That is exactly the point of our opposition to NAFTA. Indeed, I would point out that the Warnaco Co. already has a number of plants located outside the United States. Who would bet that Warnaco's New York plant will not move offshore as well?

Be that as it may, if Mrs. Wachner will deliver these ties to my office, I will be glad to distribute them to all the Members as an illustration of why I oppose NAFTA.

I think this example of ties manufactured from foreign-made fabric sends a very, very clear message. Therein lies the split within the U.S. textile industry. The cloth and the apparel folks are divided.

Madam President, for the last 8 years they have implored me: "Senator HOLLINGS, you've got to oppose GATT. You've got to oppose GATT because we are going to lose a million jobs under the General Agreement on Tariffs and Trade in the Uruguay round if they phase out the multifiber arrangement."

In the last administration a study was done in the Office of the U.S. Trade Representative—a study echoed by another one produced at the Wharton Business School—predicting that if GATT goes through it will cost at least a million jobs in the apparel industry. There is no question about that.

So I have been fighting for 8 years on behalf of my home State industry not to lose the million jobs, and here comes the American Textile Manufacturers Institute saying: "Now, Hollings, we do not mind losing a million jobs. We want to be for NAFTA."

When you ask them about it, to quote Mr. Elisha, the chairman of Springs Industries, he says: "You are going to lose the jobs anyway. What are you sweating about?" It is a defeatist attitude.

Madam President, the realities of the Japan-Mexico relationship are made crystal clear in this morning's New York Times, and I quote:

Since taking office in December 1988, Mr. Salinas has courted Asian investment and trade but encountered skepticism because of Mexico's debt crisis of the 1980's.

In fact, Mexican officials recall that Mr. Salinas turned to the idea of NAFTA after

initially rejecting it, in part because of the difficulties in getting European and Asian investors to come to Mexico.

I will read again from this morning's New York Times:

Other Japanese officials expressed irritation or amusement that Mr. Clinton seemed to be invoking Japan to scare Americans. "He's joking, right?" a senior Government politician asked. "Japan and Mexico? Does that sound like a big alliance?"

Obviously not.

Madam President, they have tried everything in the book to try to scare the folks and try to bring the pressures and try to buy the votes, but there is no doubt that what is really occurring is a fire sale of the remaining jobs in America.

I ask unanimous consent that the article in the New York Times entitled "Mexican Trade Accord: Japanese Role Doubted" be printed in the RECORD at this particular point.

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

[From the New York Times, Nov. 4, 1993]

MEXICAN TRADE ACCORD: JAPANESE ROLE DOUBTED

(By Tim Golden)

MEXICO CITY, November 3.—Contradicting a central argument from the Clinton Administration in favor of a free trade accord with Mexico, businessmen, diplomats and trade experts in Japan and Mexico say Mexico is unlikely to be flooded with new Japanese and European investments and trade deals if the pact is defeated.

With the prospect for Congressional approval of the North American Free Trade Agreement in doubt, both President Bill Clinton and President Carlos Salinas de Gortari have warned that Japan and other American rivals would seize whatever economic opportunities the United States might pass up in Mexico.

Trade experts and businessmen here, however, say Mexico is likely to prove more attractive to many potential Asian and European investors with the trade accord than without it.

Moreover, given Mexico's economic difficulties and its dependence on American capital and commerce, many economists and Government officials also say it simply could not afford to turn away from the United States, even if the trade pact fails.

'AFRAID OF JAPAN'

"This has touched a chord in the United States because people are afraid of Japan, but it is not an alternative as such," said a senior Mexican official who supports the accord and spoke on the condition he not be named. "Japan will be interested in Mexico. The same goes for Europe. But it would be naive to think that Japan is poised to jump in."

In Tokyo, Japanese officials and business people echoed the view that Mexico is unlikely to loom large in their thinking. Total Japanese investment in Mexico last year, they noted, was $60 million, roughly what Japan invested in Bangladesh and a small fraction of United States investment in the same period.

"I don't think that a discussion about a free trade agreement between Japan and Mexico has ever taken place here," said Masakazu Toyoda, the director of the Americas division of Japan's Ministry for International Trade and Industry, known as MITI. "It is an interesting idea, but I don't think it works. Perhaps we can help the U.S. and Mexico reach their own agreement."

Other Japanese officials expressed irritation or amusement that Mr. Clinton seemed to be invoking Japan to scare Americans. "He's joking, right?" a senior Government politician asked. "Japan and Mexico? Does that sound like a big alliance?"

WARNING TO CONGRESS

On Monday Mr. Clinton warned that if American legislators vote later this month to reject Nafta, as the accord is known, the Japanese would swarm over Mexico "like flies on a June bug."

Mexican officials have indeed quickened their efforts to find new economic partnerships in Europe, Asia and Latin America in case the agreement is killed. But similar efforts in recent years have been less than successful.

Since taking office in December 1988, for instance, Mr. Salinas has courted Asian investment and trade but encountered skepticism because of Mexico's debt crisis of the 1980's.

In fact, Mexican officials recall that Mr. Salinas turned to the idea of the pact after initially rejecting it, in part because of difficulties in getting European and Asian investors to come into Mexico.

Some Japanese officials have spoken positively of the trade deal, suggesting that by improving the investment climate in Mexico it would work to the benefit of Japanese investors who might want to use Mexico and Canada as a base for producing products to be exported to the United States.

OTHER PARTNERS SOUGHT

Throughout its trade talks with Canada and the United States, Mexico has continued to working to diversify the foreign partners for its investment and trade.

Until it became clear this summer that the accord was in serious trouble in the American Congress, however, Mexican officials said they saw little reason to risk antagonizing the United States by wooing America's economic competitors more aggressively.

Last year, for example, Mexican trade with European Community nations was $10.3 billion, accounting for 11.5 percent of Mexico's imports and 7.2 percent of its exports, according to Mexican figures.

Mexico's trade with Japan amounted to $3.2 billion, or less than 5 percent of the national total. But with a drop in the value of Mexico's oil sales, its trade deficit with Japan skyrocketed from $542 million in 1991 to $2.2 billion last year.

By comparison, Mexico's imports from the United States alone were $24.6 billion, or 62.8 percent of the country's purchases from abroad, while the United States accounted for 68 percent of Mexican exports, or $18.7 billion.

If the deal is rejected, senior Mexican officials say they will probably revise the country's foreign investment law in order to extend to all foreign investors some of the benefits that would go only to Americans and Canadians under the North American accord.

They said restrictions on foreign participation in banking, insurance and other financial services were almost certain to be loosened. Mexico is also contemplating signing investment-protection agreements with European countries in order to guarantee their businessmen special terms, they said.

Mexico's Trade Secretary, Jaime Serra Puche, said in an interview, "It is conceivable that in the absence of Nafta, we would go ahead and negotiate trade agreements with the European Community and Japan."

But Mexican officials acknowledged that a tariff-reduction agreement with European Community nations would be difficult to reach because it would have to be negotiated with the community as a whole. They predicted that such a deal might be more possible with Japan.

A parade of Japanese officials, however, have said that Japan is not interested in individual trade agreements with any other Latin American countries, Mexico included.

CRITICISM FROM ABROAD

The trade pact has been criticized by some Asian and European officials for what they say are barriers to investment to businesses outside the western hemisphere. The main one of these is from the fact that Nafta would set high "rules of origin."

As tariff barriers are gradually eliminated among the United States, Canada and Mexico, most goods would only be able to move freely through the zone if they were made mostly from North American materials. In two areas where Asian manufacturers might be especially anxious to invest, the automotive and textile industries, this so-called content requirement is even stiffer.

In a speech to Mexican businessmen late last month, a former Japanese Government trade official for North America, Yasuo Tanabe, complained that the trade accord showed evidence of "sneaking protectionism." But in a later interview with the Mexican newspaper El Financiero, Mr. Tanabe added that independently of the pact, "There's no Mexican boom among Japanese business society."

Trade experts and businessmen in Mexico gave a similar view: the fact that some non-American companies might be dissuaded from investing in Mexico with the accord in place does not mean those companies will invest without it.

Gabriel Szekely, a professor of international relations at the University of California at San Diego who is a leading expert on Mexico's economic relations with Asia, suggested that Mexico remained even more remote for potential investors in Japan.

"If the Japanese trading companies had identified any opportunities in Mexico, they would be pursuing them now," he added, noting that Japan is also concerned about antagonizing the United States by seeming to use its neighbor as a base for exports.

"The Japanese do not want to risk conflict with the United States by an overture to Mexico," Dr. Szekely said. "It's just not worth it to them in terms of the amount of trade they have or the new investment opportunities that such a policy could generate."

Mr. HOLLINGS. Madam President, they had all manner of big shots at the President's pep rally the day before yesterday, including Henry Kissinger. I can hear our friend Henry saying, "Oh, it is going to be a terrible disaster if we turn down the free trade agreement."

To get a feel for Henry Kissinger and his elite dealings in Mexico, I will quote briefly from a book about Kissinger:

Trust Company of the West, an investment managing firm, was a leader in raising investment capital for privatizing state-owned industries in Latin America, particularly in Mexico. Kissinger, who was on the TCW board and also served as a consultant on various projects, gave the company regular

briefings on the political climate of Mexico along with colorful assessments of its leaders. But he also did something only he could do. In March 1990, while in Acapulco on vacation, he invited TCW's energetic Chairman Robert Day, to come for a visit. Then he arranged a day trip to Mexico City. They flew in Day's corporate jet, had a breakfast meeting with the finance minister, and in the course of the day met with every other major Cabinet minister. That evening, Day went to a reception thrown for Kissinger by the American Ambassador, John Negroponte, who had once been a member of Kissinger's White House staff. On hand were 80 of Mexico's top political and business leaders. At midnight, they flew back to Acapulco.

Madam President, this is the perfect illustration of the elites—the big banks and corporations, the big moguls and influence peddlers—who are the driving force behind NAFTA. They are the ones financing the big full-page NAFTA ads in the major newspapers. They are the ones who will profit from NAFTA.

It is the little guy, the ordinary men and women on the assembly line, who have no protection whatsoever from the negative fallout from NAFTA. And it is an absolute national disgrace to see these workers sold out for peanuts and citrus and sugar and flat glass, as we see in the morning paper.

And, again, consider the hypocrisy of the administration's support of fast track treatment of NAFTA. The whole premise of fast track was that it would be impossible to negotiate a trade agreement if Congress reserved the right to make modifications and amendments to the final negotiated text. So Congress—abdicating its constitutional powers with regard to commerce—agreed to fast track consideration in order to assure Mexico that no amendments or modifications would be made to NAFTA during congressional consideration. Now we see that the administration is amending the final NAFTA text minute by minute, item by item, payoff by payoff in order to buy the votes needed for passage. As one administration official admitted in this morning's paper:

It is a quid pro quo. We're not going to do this unless it's going to deliver a significant number of votes.

Since Tuesday's elections, much has been said about the disdain the American people have for their Government. Looking at the elite, back-room deals being cut to pass NAFTA, I join Americans in that disdain. I join them. It is an embarrassment to serve in an institution where this kind of activity is going on. It is embarrassing to witness the media, this crowd up there in the gallery, averting their eyes from these special interest deals as though they were normal and acceptable business.

The Senate is assertive in enforcing its own ethical standards and practices, but where are the ethics over in the White House? They negotiated a final agreement. They submitted the agreement. It is on fast track, with no amendments permitted. Yet they continue unethically to agree to de facto amendments in order to buy off special interests. These deals are documented in the morning newspapers, yet no one talks about the unethical nature of such deals.

I repeat, it is the little guy who is being sold out. The elites, the wheeler dealers, the Kissingers, the banks are buying the newspaper ads and financing the pro-NAFTA drumbeat. This is exactly the crowd that plans to go to Mexico to make a quick profit, even at the tremendous cost to America's industrial backbone.

We need to create jobs in America, not ship them abroad. The distinguished occupant of the Chair knows this from her experience in California. California has suffered from earthquakes, fires, runaway immigration, urban riots, a disproportionate share of base closures. The cumulative economic impact is devastating, and this is the problem we should be addressing in this body. Instead, we are debating a trade agreement that we know will cost American jobs.

Madam President, I have to immodestly present myself as Exhibit 1 on the matter of jobs. I do not need any economist's study. As Governor, I had the pleasure of carpetbagging Europe, the Northeast and, yes, even San Angelo, California, in order to persuade industries to move to my State of South Carolina.

And we experienced tremendous success, so that today South Carolina boasts tens of blue chip corporations, plus 45 Japanese and 100 German plants. But now the tables are turned. Now it is Mexico that is carpetbagging the State of South Carolina, the State of California, the State of Michigan, and so on.

In recent days, the President purchased the vote of one Member of the House by promising a multibillion-dollar aid program. Fine. If the President wants to soften the blow of free trade with Mexico, he can give South Carolina an aid program for the thousands of workers from more than 15 corporations that have already departed South Carolina for Mexico—companies such as United Technologies, Cummins Gear, Pratt and Reed, Union Carbide, Abbott Labs, and Emerson Electric. Note that these are not low-paying textile jobs. They are good jobs. They are—or were—sophisticated, high-technology jobs. But they went to Mexico to take advantage of low-cost labor south of the border.

So this is our future under NAFTA. We are already witnessing a slow, destructive bleeding of jobs from the United States to Mexico. Instead of applying a tourniquet to this hemorrhage, NAFTA will cut the wound wide open. This may be good for Dr. Kissinger and the elite banks and corporations he collects consulting fees from. But pity the ordinary American worker who gets left behind.

The ACTING PRESIDENT pro tempore. The Senator's time has expired. The Senator from Oregon.

Mr. HATFIELD. Madam President, I ask unanimous consent to proceed as if in morning business for 10 minutes.

The ACTING PRESIDENT pro tempore. Is there objection? Hearing no objection, the Senator is recognized for 10 minutes.

Mr. HATFIELD. I thank the Chair.

APPOINTMENT OF THE NEW FOREST SERVICE CHIEF

Mr. HATFIELD. Madam President, for the past 6 years, F. Dale Robertson has served as Chief of the U.S. Forest Service, leading his agency through perhaps the most difficult challenges and transformations in the history of any government resource management agency. Throughout his tenure, Chief Robertson has served this country with honor, distinction, integrity and ingenuity and is unworthy of the treatment he has received at the hands of the current administration.

Unfortunately, however, a decision has been made to remove Dale Robertson and Associate Chief George Leonard from their top career Forest Service positions in an effort to clean house and promote a new agenda for the embarrassed and embattled agency.

I find this practice troublesome because these positions, which have traditionally been filled by lifetime career personnel, provide the agency with a sense of continuity, institutional knowledge and insulation from the shifting tides of Washington, DC's political culture.

Nevertheless, the termination of these two public servants appears to be an attempt to lay the blame for the problems in our national forests squarely on the shoulders of the now-former chief and his closest staff person. On its face, this misguided action is simply ludicrous. The blame for the controversy surrounding the management of our National Forest System over the past 6 years lies not with one or two men, but with those most able to actually do something about the problem: Congress and past and present Presidential administrations.

Over the past 35 years, Congress has done an excellent job layering numerous contradictory forest and resource management laws on top of one another, all the while expecting immediate and clear results from the Forest Service. In fact, over half of the laws affecting forest management in the United States today have been passed since 1964. Taken as a whole, the result of all these laws is to create a smoke obscured minefield, surrounded by what I call hyperprocess: Contradictory and unclear statutory and regulatory requirements which are the legislative equivalent of a train wreck.

Despite this untenable situation, there has been no interest in taking a

broad look at our Nation's forest management policies, an ecosystem approach debating solutions, and making the necessary changes. The current base of law has become so sacrosanct to some that, despite the pleading of myself and others, for clarifications to the forest statutes which have caused the loss of at least 26,000 jobs in my region, the majority of our Nation's lawmaking body has resisted any changes. In fact, the inaction by Congress and successive administrations mirrors an often heard theme of our time, where unless the settlement to a contentious issue is a 100-percent solution, there is no solution at all, and thus no balance and no relief is obtained for the 84 rural communities in my State dependent on a Federal timber supply.

In addition, the current administration has said it will not support—not support—clarifications in the laws relating to management of the forests of the Pacific Northwest but, rather, it will work within the existing system to solve the forest crisis.

This action is a failure to begin with. And it will continue to be a failure.

For example, last July, at the conclusion of the President Clinton's forest conference in Portland, OR, the administration promised an annual regional timber safe level of 1993—and this is now November 1993—of 2.2 billion board feet. This year, the administration will be lucky to deliver on 10 percent of that amount as they fumble about in the existing labyrinth of forest management laws. That is the effect of hyperprocess and gridlock—and with a President so willingly pointing to Congress today about gridlock, let him look at his own resource management agencies where you have a perfect example of gridlock. And it is equivalent to fiddling while Rome burns.

Clearly, the blame for the problems in our national forests likes in many places other than upon the shoulders of Dale Robertson and George Leonard. The policies of Chief Robertson over the years of his service have come under fire from all sides of the resource management spectrum, including the current Secretary of Agriculture. In fact, opponents of Chief Robertson came out in the Oregon press last week contending that he overcut national forest lands as supervisor of the Mount Hood National Forest in Oregon from 1976 to 1980. This assertion, however, is totally false.

It is an example of the misinformation, and outright lies that are now being leveled at the Forest Service in our national government.

During Dale Robertson's term as Mt. Hood supervisor, the Forest Service met its average timber sale targets almost exactly by the numbers. This target over the 5-year period of his tenure was 1.973 billion board feet, and the actual amount of timber sold was 1.981 billion board feet. In short, using the best science of that era, Supervisor Robertson maintained almost the exact level of sustainable timber harvest established through the National Forest Management Act's 10-year planning process.

To assert then that he had overcut that forest is patently false.

Despite his efforts to facilitate change and steer the agency in new and bold directions as Chief, Dale Robertson has had the unfortunate duty to serve at a time when the public has been more interested in a fight than in finding solutions. Throughout this time of criticism and constant battles, Dale has served with distinction, as shown by his numerous agency-wide and personal accomplishments.

In recent years, many have criticized the Forest Service for being an entrenched bureaucracy where change seldom, if ever, occurs. The record, however, tells a different story. In the last 15 years, the agency has changed dramatically, both in the direction and character of its programs and work force.

May I speak to substantiate this point as a member of the Appropriations Committee handling the appropriations of this agency? Let me tell you the changes that have occurred in the National Forest System between 1988 and 1992:

An increase of 75 percent in recreation funding; a 137-percent increase in funding for fish and wildlife; Madam President, a 50-percent reduction in the annual timber sales program, from 11.3 billion board feet down to 5.1 billion board feet nationwide.

In addition, the new policy to move clearcutting as a forest management tool to the bottom of the toolbox.

In addition, in 1989, at the direction of Chief Robertson, the Forest Service launched the New Perspectives Program to identify more environmentally sensitive ways of managing the National Forests and Grasslands. This year the lessons of new perspectives have been applied not only to the agency's ecosystem management policy, but also to the President's Forest Ecosystem Management Assessment Team report.

Chief Robertson has also received numerous personal awards during his time as Chief, such as two from the President of the United States—the "Meritorious Service Award" in 1987 and the Distinguished Presidential Rank in 1988. He also received Trout Unlimited's Special Conservationist of the Year Award in 1989, American Rivers Association's River Conservationist of the Year Award in 1990, the Secretary of Agriculture's award for Best Manager in USDA for Workforce Diversity in 1992 and the Senior Executive Association's Award for Outstanding Career Executive Leadership and for Success in Meeting the Challenge of Change in 1993.

Madam President, are these awards reflective of a man who shows disdain and disregard the Nation's resource conservation laws? I think not.

Dale Robertson is respected by his peers both within and outside the Forest Service as an individual with outstanding leadership abilities and high moral integrity. A man of such high accomplishment is certainly deserving of a more distinguished exit from an agency in which he has worked all his life.

Perhaps Dale, as Chief, was not a good politician. Believe me there are worse things to be charged with than that. But where he may not have been a good politician, Dale Robertson was—and remains—an exemplary forester and a cosummate professional. I have been proud to know and to have worked with him.

My disappointment with the handling of the Chief's departure is in no way a reflection of my feelings for the individual just named to serve as acting Chief, Dave Unger. My congratulations go out to Mr. Unger and I stand ready to assist with his transition to acting Chief in any way possible. His task will be formidable, likely without much satisfaction, and I pledge to work with him and his new team to bring this conflict to an end and return peace—true peace—to our forests and our communities.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

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

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

The bill clerk proceeded to call the roll.

Mrs. FEINSTEIN. Madam. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FEINGOLD) Without objection, it is so ordered.

The U.N. CHARTER IS NOT SOCIAL SCIENCE

Mr. MOYNIHAN. Madam President, as we approach the fiftieth anniversary of the charter, it is important to remember that it was a project of law, not social science. The drafters' frame of reference: the cataclysm that was World War II. Their principal goal; to establish enforceable legal standards against the use of force to resolve international disputes. In short, the charter was a concrete effort to advance international law; fundamentally, a treaty about the use of force.

It is common enough to state that during its first four decades superpower rivalries frustrated the purposes of the charter. This is, of course, the truth, but it is a partial truth. For the nonaligned bear substantial responsibility as well. By the time of my tenure at

the United Nations the very term "nonaligned" was a misnomer—the 1979 triennial meeting was in not the least bit-nonaligned Cuba. Ironically, the nonaligned found themselves in fact very much aligned with a Soviet Union at the United Nations at the same time that the highest ranking Soviet official at the United Nations—Under Secretary General for Political and Security Council Affairs Arkady Shevchenko—was defecting to the United States because of his utter disillusionment with the Soviet Union.

Blessedly, that is behind us. The obscene resolution equating Zionism to racism has been revoked. There is a new spirit of cooperation on the Security Council. Operation Desert Storm.

But then came Bosnia. The failure to combat international aggression against a member state. And Somalia. The extension of U.N. involvement into the internal affairs of a member state. And, we should add, the prolonged financial crisis of the institution to which the United States contributes as the leading delinquent in payment of dues.

At such a time it is best to return to first principles. Combatting international aggression. Extending the reach and salience of international law. This is a noble endeavor. As the distinguished commentator William Pfaff has recently written:

> Let us simply promote the observance and extension of international law and legality. This is a long-term project, but it is the way that, during the past two centuries, some degree of regulation and pacification of state relations has been accomplished. One may consider this a progress of civilization.

Indeed it is.

Madam President, I ask unanimous consent that the entire article by Mr. Pfaff be printed in the RECORD at this point.

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

[From the International Herald Tribune, Oct. 9–10, 1993]

THE AMERICAN ROLE: SPARE US THE BLAND IDEALISM, MR. PRESIDENT

(By William Pfaff)

PARIS.—The foreign policy of the Clinton administration has now been explained, and the explanation is unsettling. The secretary of state, Warren Christopher, the national security adviser, Anthony Lake, and UN Ambassador Madeleine Albright all have made speeches in recent weeks setting out how the administration sees the world.

General Colin Powell, departing chairman of the Joint Chief's of Staff, made his own national policy speech. As he served most of his career in Washington under Republican presidents, his talk is particularly interesting in generally confirming what the three Clinton administration officials have said. We have before us something like contemporary Washington's consensus view of what the United States should be about.

It amounts to a desiccated Wilsonism. With the end of the Cold War, Washington has for lack of other ideas, fallen back on the idealistic and sentimental view of history and the world that characterized the Wilson and Roosevelt administrations.

But while those presidents set out ambitious plans to remake international society through the League of Nations and the United Nations, the Clinton officials, product of less confident times, speak verily and inconclusively of the pitfalls of multilateralism versus unilateralism.

They express the belief, nonetheless, that peoples elsewhere turn to America for leadership because it exemplifies the values others seek.

We are told that democracy and market economics are universally valid and indispensable to one another, a doctrine uncritically taken over by the Clinton administration from its Republican predecessors—and historically untrue. The goal of U.S. policy is identified as to "enlarge" the influence and reach of the American model of a free society and marketplace.

"We have arrived at . . . a moment of immense democratic and entrepreneurial opportunity, and we must not waste it," said Mr. Lake. Against this "advance of democracy and markets" we must expect "forceful reactions from those whose power is not popularly derived."

The other main dangers facing the United States are identified as nuclear proliferation; ethnic conflict, terrorism, notably by Islamic fundamentalists, and environmental degradation.

In their program to enlarge the sway of markets and democracy, the secretary of state and his colleagues have not seriously addressed the problem that Max Singer and Aaron Wildavsky stated in their recent book "The Real World Order: Zones of Peace/Zones of Turmoil": that a major part of the world experiences internal turmoil which the intervention of others, or of the "world community," may be unable to influence or may even worsen (IHT, Sept. 2).

This turmoil may be a reaction against social, economic and political forces originating in the West. This is true of Islamic fundamentalism, which was installed in Iran by the popular will, not against it. Nuclear proliferation no doubt is dangerous, but to an Israeli, Pakistani, Indian or Iranian, nuclear proliferation offers security against threats or intimidation by other countries.

Terrorism is loathsome, but so is any form of warfare directed against civilians with the intention of influencing the policies of governments; and terrorism is the weapon of people who have no other weapon. Like ethnic conflict, terrorism is a social and political phenomenon that has nothing to do with democracy or markets—or trust in Americans.

In that respect, I could supply General Powell with a dozen citations every day from European politicians, businesspeople and the mainstream press expressing distrust of the United States and its policies. We Americans are accused of being economic predators who conceal our self-interest in hypocritical language. And the Europeans are our friends. The notion that we are universally envied is a very dangerous illusion.

Let me propose two simple priorities for a new American foreign policy. First is to protect well-defined U.S. material and political interests. This means defending the internal peace and external security of the community of industrial democracies. These are the only countries that, if they go wrong, could produce a real upheaval in the world.

What happens in China, Iran or South Africa is marginal to what happens in North America, Western Europe and Japan. Southeastern and Eastern Europe is important because events there threaten the security of industrial Europe—the place where much trouble has originated in the 20th century. What happens to Russia is important for the same reason, and because Russia is a nuclear power.

But if we wish to enlarge the zone of stability in the world, let us leave democracy and markets out of it for the moment. Let us simply promote the observance and extension of international law and legality. This is a long-term project, but it is the way that, during the past two centuries, some degree of regulation and pacification of state relations has been accomplished. One might consider this a progress of civilization.

Mr. Lake, in his talk, brings up the subject in an apologetic fashion, expressing a "personal hope" (unshared by the Clinton administration?) that "one day" international law may play a more civilizing role in international relations, quickly adding that "any official with responsibilities for our security policies" must act solely on the basis of American interests. So much for law. But then, so much for civilization.

THE 25TH ANNIVERSARY OF THE SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

Mr. MITCHELL. Madam President, this week, the National Council on the Aging is celebrating the 25th anniversary of the Senior Community Service Employment Program [SCSEP]. Funded under title V of the Older Americans Act, the SCSEP provides training and employment opportunities to older persons age 55 and above, who meet certain income guidelines.

As a part of their celebration, the SCSEP will be holding its Project Directors' Conference in Portland, ME, from November 6 through November 10, 1993. The University of Maine, which receives funding from the National Council on the Aging, has agreed to serve as a cosponsor for the conference. The university's cooperative extension program trains seniors for placement with businesses and nonprofit agencies throughout Maine.

Seniors trained in the university's program have been employed in a variety of capacities. One person worked as a clerk at a Belfast, ME, department store, while another was hired by a Presque Isle lawyer. Several other seniors have gone on to start their own bussiness.

Programs like the SCSEP contribute to our Nation's economic well being by providing challenging and rewarding jobs to older Americans. Utilizing the talents and resources of these experienced people benefits not only the individuals themselves, but the communities in which they serve. These workers bring to their jobs dependability, attention to detail, loyalty to coworkers and employers, and a commitment to productivity.

Extended work life enhances independence for older Americans, helps provide a foundation for healthier

lives, and allows them to continue contributing to their communities and families.

The SCSEP and other programs have made significant contributions to both older Americans and the general community. Therefore, I would like to commend the Senior Community Service Employment Program of the National Council on the Aging and ask that citizens, employers, public and private human service agencies, educational and training institutions, and younger workers join in congratulating their worthwhile enterprise.

RUSSIAN TROOPS IN ESTONIA AND LATVIA

Mr. DECONCINI. Madam President, I would call attention to a frontpage article in the November 4, 1993, issue of the Washington Post regarding the new, assertive military doctrine adopted by President Yeltsin and his Security Council.

As outlined by Russian Minister of Defense Grachev, there are several aspects of this new military doctrine that may cause concern in post-cold war Europe. At this moment, I would like to focus on a statement by Minister Grachev that is particularly disturbing. According to the chief of the Russian military, and I quote, "there is absolutely no problem" in withdrawing the Russian troops from Estonia and Latvia from a technical point of view, and if the "problem" of Russian-speaking minorities were solved, "within a half a year, not a single soldier would remain there."

This is very interesting, inasmuch the CSCE summit declaration of July 1992 called upon participating states to assist in removing foreign troops from the Baltic States without conditions. And Russia, as we know, is a participating CSCE state. In fact, Russia's Foreign Minister said in London recently that "Russia does not plan to tie withdrawal of troops from the Baltics to conditions of the Russian population in those countries." It makes you wonder who is making foreign policy over there, the Foreign Ministry or the Ministry of Defense?

In the past, the Russian Government claimed that a lack of housing in Russia prevented Moscow from removing the troops expeditiously. Apparently, based upon Minister Grachev's statement, the housing that has been built in Russia, partly with United States taxpayers' money, is now adequate to house returning troops. So now, it would appear that these troops will be used to blackmail Baltic governments into yielding to Moscow on citizenship and naturalization procedures for ethnic Russians.

Madam President, United States policy toward Estonia and Latvia on the ethnic Russian issue has been to encourage these nations to allow the reasonable integration of its non-indigenous minorities into the national structure. The majority of ethnic Russians still in Estonia and Latvia are going to remain there and they deserve treatment in accordance with internationally accepted standards. In Latvia, the situation is still developing, as a law on naturalization has not yet been passed. A CSCE mission has recently been established in Latvia to address citizenship and other related matters, and to report on the realization of CSCE principles.

In Estonia, CSCE has been working assiduously to bring the Estonian and Russian communities together, and on the advice of CSCE and the Council of Europe, the Estonian parliament amended its law on aliens to help assuage concerns of the ethnic Russian community.

I do not claim that the ethnic Russian communities in Estonia and Latvia are entirely satisfied. After all, Estonia and Latvia were illegally incorporated into the former Soviet Union, and are entitled to re-establish their statehood.

What I will say, however, is that for Russia to use the presence of its remaining troops in Estonian and Latvia as a blunt instrument to enforce its will on the sovereign nations of Estonia and Latvia is simply unacceptable.

I commend Secretary Christopher for his principled call in Riga recently for the removal of Russian troops from Latvian and Estonian soil, and I trust the State Department will continue to make that position absolutely clear.

I would also remind my colleagues of the Byrd amendment to the foreign assistance bill, according to which foreign aid to Russia is contingent on White House certification on significant removal of Russian troops from Estonia and Latvia.

Let us hope the White House is watching Russian words and Russian deeds in the Baltics very closely. I am sure the Congress will.

COMBATING ETHNIC INTOLERANCE IN ROMANIA

Mr. DECONCINI. Madam President, on October 21, 1993, the Senate agreed to support the administration's recommendation that most-favored-nation [MFN] trade status be granted to Romania. Although I was one of the early proponents of that decision, I have repeatedly emphasized, in my statements in this CONGRESSIONAL RECORD and in my interactions with Romanian officials, that my support for MFN is contingent on continued progress in a number of areas of human rights concern.

Significant among these is respect for the rights of all Romania's citizens, regardless of ethnic origin. As a participating state of the Conference on Security and Cooperation in Europe, Romania has pledged to "promote a climate of mutual respect, understanding, cooperation and solidarity among all persons living on its territory, without distinction as to ethnic or national origin or religion, and [to] encourage the solution of problems through dialogue based on the principles of the rule of law."

Regrettably, recent violent events in the village of Hadareni indicate that serious inter-ethnic tensions and hostilities persist. On September 20, 1993, following a fight between members of the Roma [Gypsy] and non-Roma community in which a 25-year-old non-Roma was killed, hundreds of non-Roma villagers assaulted their Roma neighbors, lynching 3 men and burning 13 houses to the ground.

The Romanian Government speedily issued a statement expressing serious concern over the incident, committing itself to investigate the case and bring the incriminated persons to trial. The Government also promised to grant financial support to the rebuilding of the homes that had been destroyed, and to help house and school the affected children. The promptness of this response is welcome and commendable. I also want to express my gratitude to the Romanian Embassy here in Washington for its efforts to keep me informed of developments in the case.

I am deeply concerned, nonetheless, by a pattern of discrimination and violence against Roma in Romania—not merely in popular attitudes, but also reflected in the press, and even statements by Romanian officials. It is my firm conviction that political leaders and other government authorities have a critical role to play in promoting tolerance and mutual respect, in combating negative stereotypes, and in ensuring that justice is fairly administered. I am troubled by reports that investigations of 16 recent incidents of this nature have resulted in trials for Roma alone, whereas non-Roma suspects have been freed. I would urge the Romanian authorities to ensure that the investigation of this particular case is conducted in a prompt and impartial manner.

As chairman of the Commission on Security and Cooperation in Europe, I fully understand the complexities and difficulties Romania is facing as it undergoes the transition to democracy and a market economy. I know, too, that questions concerning inter-ethnic relations and the situation of Roma in particular are not limited to Romania. It takes time to change popular attitudes in all of our countries—but when discrimination is exploding in violence, we have no time. This is particularly important when, as was the case in Hadareni, popular notions of justice threaten to undermine basic concepts of law enforcement. Crimes committed by Roma, or any other individuals, should be punished to the fullest extent

of the law. Democracy assumes civic responsibility, as well as guaranteeing rights. But mob justice, by definition, has no place in societies governed by the rule of law. Spontaneous aggression in the name of justice can only undermine progress toward that goal.

HATE CRIMES MUST BE PUNISHED

Mr. MOYNIHAN. Madam President, I rise to express my deep concern over the recent attack on American athletes which took place in Oberhof, Germany. On October 29, 1993, fighting broke out in a discotheque in Oberhof after a group of approximately 15 German skinheads began shouting racist insults at an American athlete, Robert Pipkins of Staten Island, who is black. When a teammate went to help him, he was attacked. Such racially motivated incidents are highly disturbing wherever and whenever they occur. It is particularly disheartening that this attack was targeted at American athletes who were training for the Olympics. The spirit of international harmony embodied by the Olympics suffers from such incidents. German authorities are seeking stiff penalties for the perpetrators of this terrible attack, and I urge them to make every appropriate effort to bring justice to bear in this situation.

CONDEMNING THE NEO-NAZI ATTACK ON MEMBERS OF THE UNITED STATES NATIONAL LUGE TEAM IN GERMANY

Mr. D'AMATO. Madam President, I rise today to comment on the Neo-Nazi hate crime carried out upon two members of the United States National Luge Team in Germany last week.

All New Yorkers are shocked by this blatant racial attack on our athletes in Germany. My constituents Robert Pipkins, of Staten Island, and Duncan Kennedy, of Lake Placid, were simply victims of an unconscionable hate crime.

It is outrageous that an American should be targeted simply because he is an African-American. When a teammate came to his aid, the teammate himself was beaten by the gang of skinheads.

On Friday, October 29, 1993, three United States athletes, entered a German disco in the town of Oberhof, 150 miles southwest of Berlin. While one left the disco, 15 Neo-Nazi skinheads surrounded the other two and began to taunt Robert Pipkins, the only black in the room. When his teammate, Duncan Kennedy, came to his aid, he was chased up a staircase and was caught by these thugs, who repeatedly beat and punched him, until he ran from the building.

This kind of behavior is inexcusable and an outrage to civilized society. Our citizens need to feel secure when abroad, especially when they officially represent our Nation. On Monday, I, along with to Congresswoman SUSAN MOLINARI and Staten Island Borough president, Guy Molinari, wrote to Secretary of State Christopher demanding to know what actions the State Department has already taken and what actions it plans to take. Americans want to know what their Government is doing to ensure their protection overseas. Most importantly, we strongly urged him to issue a formal complaint to the German Foreign Minister, and demanded to know what the German Government will do to address this egregious situation. I reiterate these requests.

These gangs of hoodlums are murdering, pillaging, and sowing the seeds of fear wherever they go. For this incident to pass without an official complaint would be tantamount to condoning their behavior.

Nazism is a scourge of the past and cannot be allowed to raise its ugly head. Germany must do more to fight this awful movement and we too, in the United States, must do all that we can to fight bigotry and religious and ethnic hatred. There is no place in our society, or any society for crimes of hate. We must work to eliminate this violence and eliminate it now.

ON USE OF DISPLAY MATERIALS IN THE SENATE CHAMBER

Mr. FORD. Madam President, on behalf of Senator STEVENS and myself, I wish to announce that the Committee on Rules and Administration at its meeting of November 4, 1993, approved an amendment to rule XVII, "Use of Display Materials in the Senate Chamber," of the Rules for Regulation of the Senate Wing of the Capitol.

The amended rule increases the maximum size of graphic materials from 24 inches by 30 inches to 36 inches by 48 inches and permits them to be displayed next to the Senator's desk, as well as at the rear of the Chamber as previously allowed.

I ask unanimous consent that the rule, as amended, be printed in the RECORD at this point.

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

[Committee on Rules and Administration, U.S. Senate]

RULE FOR USE OF DISPLAY MATERIALS IN THE SENATE CHAMBER

(Approved July 25, 1986)

(Amended/Effective November 4, 1993)

Rule XVII of the Rules for Regulation of the Senate Wing of the United States Capitol, entitled "Use of Display Materials in the Senate Chamber", adopted under authority of rule XXXIII of the Standing Rules of the Senate, is hereby amended to read as follows:

USE OF DISPLAY MATERIALS IN THE SENATE CHAMBER

Graphic displays in the Senate Chamber are limited to the following:

Charts, photographs, or renderings:

Size—No larger than 36 inches by 48 inches.

Where—On an easel stand next to the Senator's desk or at the rear of the Chamber.

When—Only at the time the Senator is engaged in debate.

Number—No more than two may be displayed at a time.

DELEGATION OF AUTHORITY TO APPROVE RULES AND REGULATIONS

Mr. FORD. Madam President, the Committee on Rules and Administration has amended its rules of procedure to provide for the delegation of authority to approve rules and regulations that require committee approval. On behalf of the committee, I submit for printing in the CONGRESSIONAL RECORD, pursuant to rule XXVI of the Standing Rules of the Senate, a copy of the committee's rules of procedure that includes the amendment that was approved November 4, 1993.

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

RULES OF PROCEDURE OF THE SENATE COMMITTEE ON RULES AND ADMINISTRATION

(Adopted November 4, 1993)

TITLE I—MEETING OF THE COMMITTEE

1. The regular meeting dates of the committee shall be the second and fourth Wednesdays of each month, at 9:30 a.m., in room SR-301, Russell Senate Office Building. Additional meetings may be called by the chairman as he may deem necessary or pursuant to the provisions of paragraph 3 of rule XXVI of the Standing Rules of the Senate.

2. Meetings of the committee, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the committee on the same subject for a period of no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in subparagraphs (A) through (F) would require the meeting to be closed followed immediately by a recorded vote in open session by a majority of the members of the committee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(A) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) will relate solely to matters of the committee staff personnel or internal staff management or procedure;

(C) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(D) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(E) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(F) may divulge matters required to be kept confidential under the provisions of law or Government regulations. (Paragraph 5(b) of rule XXVI of the Standing Rules.)

3. Written notices of committee meetings will normally be sent by the committee's staff director to all members of the committee at least 3 days in advance. In addition, the committee staff will telephone reminders of committee meetings to all members of the committee or to the appropriate staff assistants in their offices.

4. A copy of the committee's intended agenda enumerating separate items of legislative business and committee business will normally be sent to all members of the committee by the staff director at least 1 day in advance of all meetings. This does not preclude any member of the committee from raising appropriate non-agenda topics.

5. Any witness who is to appear before the committee in any hearing shall file with the clerk of the committee at least 3 business days before the date of his or her appearance, a written statement of his or her proposed testimony and an executive summary thereof, in such form as the chairman may direct, unless the chairman and the ranking minority member waive such requirement for good cause.

TITLE II—QUORUMS

1. Pursuant to paragraph 7(a)(1) of rule XXVI of the Standing Rules, 9 members of the committee shall constitute a quorum for the reporting of legislative measures.

2. Pursuant to paragraph 7(a)(1) of rule XXVI of the Standing Rules, 6 members shall constitute a quorum for the transaction of business, including action on amendments to measures prior to voting to report the measure to the Senate.

3. Pursuant to paragraph 7(a)(2) of rule XXVI of the Standing Rules, 4 members of the committee shall constitute a quorum for the purpose of taking testimony under oath and 2 members of the committee shall constitute a quorum for the purpose of taking testimony not under oath: *provided, however,* That in either instance, once a quorum is established, any one member can continue to take such testimony.

4. Under no circumstances may proxies be considered for the establishment of a quorum.

TITLE III—VOTING

1. Voting in the committee on any issue will normally be by voice vote.

2. If a third of the members present so demand, a record vote will be taken on any question by rollcall.

3. The results of rollcall votes taken in any meeting upon any measure, or any amendment thereto, shall be stated in the committee report on that measure unless previously announced by the committee, and such report or announcement shall include a tabulation of the votes cast in favor of and the votes cast in opposition to each such measure and amendment by each member of the committee. (Paragraph 7(b) and (c) of rule XXVI of the Standing Rules.)

4. Proxy voting shall be allowed on all measures and matters before the committee. However, the vote of the committee to report a measure or matter shall require the concurrence of a majority of the members of the committee who are physically present at the time of the vote. Proxies will be allowed in such cases solely for the purpose of recording a member's position on the question and then only in those instances when the absentee committee member has been informed of the question and has affirmatively requested that he be recorded. (Paragraph 7(a)(3) of rule XXVI of the Standing Rules.)

TITLE IV—DELEGATION OF AUTHORITY TO COMMITTEE CHAIRMAN

1. The chairman is authorized to sign himself or by delegation all necessary vouchers and routine papers for which the committee's approval is required and to decide in the committee's behalf all routine business.

2. The chairman is authorized to engage commercial reporters for the preparation of transcripts of committee meetings and hearings.

3. The chairman is authorized to issue, in behalf of the committee, regulations normally promulgated by the committee at the beginning of each session.

TITLE V—DELEGATION OF AUTHORITY TO COMMITTEE CHAIRMAN AND RANKING MINORITY MEMBER

The chairman and ranking minority member, acting jointly, are authorized to approve on behalf of the committee any rule or regulation for which the committee's approval is required, provided advance notice of their intention to do so is given to members of the committee.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOX SCORE

Mr. HELMS. Mr. President, as of the close of business yesterday, November 3, the Federal debt stood at $4,424,959,774,661.34, meaning that on a per capita basis, every man, woman, and child in America owes $17,227.19 as his or her share of that debt.

TRIBUTE TO MR. FRANK TIMMERMAN

Mr. THURMOND. Mr. President, W.W. Ball, the former editor of the Charleston News and Courier, once said the following of the country where I was born: "Edgefield has had more dashing, brilliant, romantic figures, statesmen, orators, soldiers, adventurers, and daredevils than any other county of South Carolina, if not of any rural county of America."

Today, I rise to pay tribute to one of Edgefield County's proudest sons, the able and dedicated statesman, Mr. Frank Timmerman.

Frank Timmerman's name has been synonymous with public service since the early 1950's. He has served as the chairman of the county school board of trustees, a member of the State senate, and as a civic and church leader. We are all proud of Frank Timmerman's many contributions to our State and are grateful for his lifelong commitment to making Edgefield County a better place to live.

Mr. President, Frank Timmerman recently celebrated his 94th birthday and the Edgefield Citizen News printed a flattering editorial about this great man. I ask unanimous consent that a copy of this editorial be placed into the RECORD following my remarks.

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

A TRIBUTE TO "MR. FRANK"

Tuesday, October 19, 1993, marked the 94th birthday of one of Edgefield County's most renowned and beloved citizens: Frank Elbert Timmerman, fondly known to many as "Mr. Frank."

During the course of his long and productive life, "Mr. Frank" served Edgefield County in an infinite number of ways. Perhaps the most noteworthy service which he rendered to Edgefield County was his representation of our county in the South Carolina State Senate for eight years between 1957 and 1964.

Born in the Eureka section of Aiken County, "Mr. Frank" attended the public schools in the Johnston area and was graduated from Johnston High School. He attended Mars Hill Junior College and Clemson College (1916–1918).

In 1928, he moved to Edgefield where he became the local Chevrolet automobile dealer and a fuel distributor. He was actively engaged throughout his life in the timber and real estate businesses as well.

Apart from his business interest, "Mr. Frank" has given enormously of his time and resources to the service of his fellow man. From 1951 through 1956 he served as Chairman of the School Board of Edgefield County. During this tenure he was responsible for great improvements to our public schools. Of his many contributions, perhaps one of the most significant was the construction of the Edgefield Gymnasium at the then Edgefield Public School. This gymnasium has been renovated in recent years and is now maintained as a public recreational facility by the Town of Edgefield.

Beginning in 1957, "Mr. Frank" served in the South Carolina State Senate. While in the State Senate he served on numerous committees of statewide importance. Of perhaps greater local interest, though, was the Senator's careful attention to the public works in Edgefield County, particularly our public roads.

A lifelong member of the Baptist Church, "Mr. Frank" has given enormously of his time to the First Baptist Church in Edgefield. A former Deacon and tireless worker, he took particular interest in maintaining the church building and grounds for many years. Moreover, in 1974, at his instigation, under his oversight and largely at his expense, a major cleanup of Willow Brook Cemetery was undertaken.

Over the course of his lifetime Mr. Frank has helped countless citizens. From our less fortunate folks who simply need food or financial help, to the budding young entrepreneurs who needed guidance and advice, Mr. Frank has always been uniformly generous. He has helped more people during his lifetime than we'll ever know.

On July 26, 1932, "Mr. Frank" married the former Lucy Scurry ("Miss Lucy") of Edgefield. Last year they celebrated sixty years of marriage. This golden couple of Edgefield are the proud parents of two children: a daughter, Helen T. Daeger of Columbia and a son, Frank E. Timmerman, Jr. of Atlanta. They are the proud grandparents of Miss Kimberly Daeger of Rome, Italy, Mrs. Lucinda Worthington Moore of St. Paul, Minn., Miss Alyson Worthington of Columbia, and Miss Maria Timmerman and Miss Angela Timmerman, both of Atlanta.

To "Mr. Frank" on this, your 94th birthday, we at The Citizen News join all of Edgefield County in saluting you, and in thanking you for your many years of service to our County.

PAYING TRIBUTE TO ALEXANDER M. SANDERS, JR.

Mr. THURMOND. Mr. President, I recently had the opportunity to attend the inauguration of Alexander Mullings Sanders, Jr., as the 19th president of the College of Charleston.

Alex Sanders is certainly well qualified to assume the duties of the presidency of this 208-year-old college. His background includes teaching law at both Harvard and the University of South Carolina as well as serving as chief judge of the South Carolina Court of Appeals. The reputation of President Sanders is one of unquestionable fairness and tolerance. I have every confidence that the College of Charleston will prosper under Judge Sander's presidency and I wish him the best of luck in his new job.

Mr. President, I ask unanimous consent that an editorial that appeared in the Charleston Post and Courier be inserted into the RECORD following my remarks.

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

[From the Charleston Post and Courier, Oct. 24, 1993]

ALEX SANDERS MADE FOR THE JOB

When Judge Alexander M. Sanders Jr. left the S.C. Court of Appeals a year ago, his colleagues on the bench made it clear they felt their loss was the College of Charleston's gain. How right they were. He was made for the job of president in which he is being formally installed today.

Alex Sanders is, after all, a man of enormous intellect, wit and charm. He also is one of those rare individuals who has genuine tolerance for opposing views, a contagious enthusiasm for life and a true zest for knowledge. Where better to use all those attributes than a college campus, particularly one with the history of the College of Charleston?

He certainly is the college's best salesman, as his assessment of the state of that institution on our Commentary page today should indicate. And, when it comes to protecting the school's best interests, either before the Commission on Higher Education or the state Legislature, there's no one better. It's not just that he is a former judge and legislator that stands him in such good stead. It's because of the respect his public record commands.

He wasn't on campus long before he was drawing on his training on the bench. The culprits in an incident that had racial overtones were quickly identified and an advisory committee functioned much like a jury in helping come up with appropriate sentences. None of the students involved appealed.

Faculty members will tell you there's no question who comes first with the new President, the 19th in the college's history. He is quick to remind them that before a student's four years are over, that student will spend about $25,000. That's the kind of customer, he notes, to which any business would pay close attention. We're also told that the president devotes a portion of most days to personally calling good academic prospects in hopes of selling them on the college.

And, as best we can tell, Alex Sanders is the only state college president who gives money to his college's foundation, the vehicle through which most state schools supplement their president's salary. That's a result of what he calls his "speech making" policy.

Known for his oratorical ability, by late summer he already had given more than 126 free speeches to various non-profit groups since he's been president.

He does charge business and professional groups an honorarium, ranging from $250 to $2,500. All of that money is donated back to the college or the foundation. To date, he says he has collected $9,900 for the college. There are weeks, he notes wryly, when he gives the college more than it gives him.

Alex Sanders is a leader who knows how to teach by example.

CONCERNING THE CLYDE DANGERFIELD CONNECTOR

Mr. THURMOND. Mr. President, for several years now, there has been what seems to be a confrontational atmosphere between environmentalists and those who wish to develop or harness our Nation's natural resources. Last month, I attended the dedication of a structure which is proof positive that it is possible to both protect and use environmentally sensitive areas.

The Clyde Moultrie Dangerfield connector is a $38.3 million bridge project that runs almost 4 miles, and links the Isle of Palms with Charleston, SC. It is truly a marvel of engineering and will do a great deal to help ease traffic problems in the Charleston area as well as to promote tourism and commerce. What makes this bridge unique is that it is being heralded as an environmentally conscious construction project that will serve as a model for the whole Nation.

Part of the land that the connector crosses is some of South Carolina's most beautiful, yet delicate, marshlands. As we all know, preservation of our Nation's diminishing wetlands has become a matter of great importance and there was concern that building a bridge over this sensitive ecosystem might be catastrophic. In order to complete this project, the South Carolina Department of Transportation took a multitude of steps to ensure that the construction and use of this bridge would have minimal impact on the marsh. The State newspaper, located in Columbia, SC, carried an article this past weekend which outlined many of the measures taken by the transportation department to safeguard the marsh and I ask unanimous consent that this article be inserted into the RECORD following my remarks.

Mr. President, I am a strong advocate of balancing environmental concern with the ability to harness our natural resources. I am proud of the Dangerfield connector and the sensible compromise it strikes between use and protection. I am confident that Government officials and environmentalists will begin turning to South Carolina with greater frequency to study how we tackle difficult environmental issues with a level headed approach.

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

[From the Columbia (SC) State, Oct. 3, 1993]

ISLE OF PALMS BRIDGE PRESERVES WETLANDS BELOW

(By Charles Pope)

For those even vaguely familiar with the state Department of Transportation and the environmental melees that often accompany its road and bridge projects, the $40,000 grant from the Federal Highway Administration was indeed noteworthy.

The money was a gift to publicize the novel construction techniques used to build the $38.3 million Isle of Palms connector and bridge with an amazingly light touch on the environment. The 3.8-mile bridge and road, christened Saturday, was built over some of the most valuable—and vulnerable—saltwater marsh in South Carolina. The road and bridge connect the popular beach resort with U.S. 17.

In addition to leaving the environment virtually untouched during construction, the bridge is equipped with a storm-water management system that will capture rainwater in buckets along the edge of the bridge so the pollutants won't fall into the marsh below. The Isle of Palms project is the only one in the state, and possibly the nation, to have such a system, department officials said.

Moreover, extra care was taken during construction to prevent concrete and other debris from falling into the marsh. Biodegradable compounds such as solvents were used in construction equipment to lessen the risk to the marsh.

And according to Transportation Department officials, the bridge offers something else: tangible proof that the department is serious about reversing its record of disregarding environmental concerns in the name of roads.

As the project's federally funded brochure points out, "This isn't a project designed to look environmentally sound—it's a project that is environmentally sound."

Even the harshest critics agree on that point, but many are withholding final judgment on whether the Isle of Palms project is a reflection of the department's new thinking or a high-profile exception to the rule.

"There is still a great deal of resistance to change within the department for doing things the right way," said Dana Beach, executive director of the South Carolina Coastal Conservation League and a frequent critic of the department.

"They are changing, they are making better decisions, but it's a very slow process and it's not without great wailing and gnashing of teeth."

Beach points out that the department is resisting requests to install a storm-water system in a bridge that will connect Hilton Head Island to the mainland. While the wetlands below the proposed Hilton Head project aren't pristine, the environmental qualities are similar in many ways to what was found near the Isle of Palms.

But if history is a lesson, the Hilton Head Island project may ultimately be equipped with the system. During the early discussion

of the Isle of Palms bridge, the department also insisted a storm-water system could not be added. It finally relented, Beach and others said, when U.S. Rep. Arthur Ravenel, the U.S. Fish and Wildlife Service and other agencies said in the late 1980s, "No storm-water system, no bridge."

There have been other controversies as well during the almost 20 years since the bridge was first proposed. Many Isle of Palms residents fiercely opposed the bridge, fearing it would open the area up to even more development, traffic and congestion. A nonbinding vote in 1988 on whether the bridge should be built was virtually a dead heat, with supporters prevailing by a slim margin.

The project received a boost in 1989, however, when Hurricane Hugo revealed the need for an additional way to get off the beach quickly. Until the Isle of Palms connector opened, the only overland way to get on the beach was by crossing the Ben Sawyer Bridge, a two-lane drawbridge that stalls traffic for miles when it must open for boats. The 20,000 cars that cross the Ben Sawyer Bridge each day have strained its capacity, department officials said.

The new bridge is expected to handle 6,000 cars a day and that number is expected to more than double by the year 2007.

Despite the controversy and unanswered questions, Beach concedes, "I was very impressed with what they did with the construction. I would say generally that the project was as sensitively done as possible."

Beach's endorsement is important because of the constituency his organization represents—mainline, establishment interests that are effective in lobbying for change. State and federal highway officials, therefore, said they were pleased with Beach's assessment, so much so that he is prominently quoted in a brochure and videotape that were produced with the $40,000 grant.

Officials hope the brochure and videotape will spark interest in other areas so the construction technique will be duplicated.

No matter how it's viewed, the 3.8-mile bridge and road are an accomplishment. While spanning wetlands, marshes, rich oyster and shellfish beds, as well as the Intracoastal Waterway, less than one acre of those estuaries was destroyed. If traditional methods had been used—such as building an access road alongside the construction site so it could be built from the ground up—highway designers and builders say hundreds of acres would have been destroyed.

For the Isle of Palms, such destruction was never a possibility. Instead, a "top down" strategy was used, which required the use of a novel trestle and crane system that allowed the road to be built in sections about 120 feet long. In all, there were more than 100 sections.

The system used four steps: first, the pilings were sunk to a depth of about 180 feet and then filled with concrete. Then the pilings were "capped" with a concrete crossbar that connected them. In the third step, seven, 75-ton precast concrete reinforced girders were laid across two sets of girders and fastened. Finally, the deck and roadbed were built.

When one section was finished, the entire construction operation—a 300-foot-long, temporary trestle that sank the pilings and the giant cranes, "leapfrogged" ahead to begin the next section.

"It's considerably harder to build it this way because you're building it in a linear manner. That means any disruption, even small ones, delay the entire project because you can't get alongside it to work," said Keith Jacobson, vice president of Massman Construction Co., of Kansas City, Mo., which built the bridge and road.

But Jacobson, like other officials, said the effort was worth it because the Isle of Palms project, once started, avoided bitter disputes.

"One hallmark of this project is we avoided bad experiences," Jacobson said from his office in Missouri. "South Carolina has had bad experiences with heavy construction projects in the Charleston area, and it says something when you can finish a project without that."

SPEECH GIVEN BY DR. JAMES EDWARDS AT THE OPENING OF THE ISLE OF PALMS CONNECTOR

Mr. THURMOND. Mr. President, Dr. James B. Edwards, president of the Medical University of South Carolina, gave the main address at the dedication of the Isle of Palms Connector, honoring Clyde Moultrie Dangerfield, on October 2, 1993.

In his speech, Dr. Edwards highlighted the many accomplishments of Mr. Dangerfield, which include his service in the State legislature, his commitment to improving the highway system surrounding Charleston, and his many civic activities. Dr. Edwards rendered a distinct service by presenting my good friend Clyde Dangerfield's history and I ask unanimous consent that Dr. Edwards' speech be inserted into the RECORD following my remarks.

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

REMARKS BY DR. JAMES B. EDWARDS, OPENING OF THE ISLE OF PALMS CONNECTOR, OCTOBER 2, 1993

It is my pleasure to introduce the individual we are honoring today in opening this beautiful highway and bridge named in his honor—my good friend, Clyde Moultrie Dangerfield. Clyde, this is your special day and you have been an inspiration for many of us who admire a true "public servant", dedicated to helping people. Clyde exemplifies the strength of this great nation—a man who serves his god, his country, his state, his community, and his family. By his serving, we have been blessed and Clyde, too, has been blessed.

Clyde has been blessed with a beautiful family. Let's ask Betty Dangerfield and their children and grandchildren to stand. Let's give them a hand.

Clyde has served his church, having been a founder and charter member of the First United Methodist Church of the Isle of Palms. He has worked in that church ever since, and raised a Christian family. Clyde recognized the importance of location even back in his younger years, because the church sits prominently at the end of the business district where all must pass. The church has been part of the fabric of the Isle of Palms since 1950, the first church on the island. In introducing Clyde on one occasion, Wayne Martin used the following Biblical quote to describe Clyde's life: 1st Matthew, Chapter 5, Verse 16—

"Let your light so shine before men, that they may see your good works, and glorify your Father which is in Heaven."

CLYDE SERVED HIS COUNTRY

Being a patriot, when our country needed able bodied men and women, Clyde joined the U.S. Army during World War II, where he served for three years before being discharged in 1945, Clyde and I are old enough to remember when ferries—the Sprig Carrol, the Nancymon and the Sapho—connected the islands, and when the soldiers at Fort Moultrie marched down Rifle Range Road in preparation for action in World War II.

CLYDE SERVED HIS STATE

Few can equal the impact of Clyde Dangerfield on the business of this state in recent decades. He was elected in 1953 and served 35 years in the Legislature. He faced the voters 18 times and won each time. Time will not allow me to enumerate his many accomplishments during his tenure, but I know Clyde is very proud of his service as chairman of the House-Labor-Commerce-and-Industry Committee, serving longer as chairman of a state committee than any other member in the state's history; and he served as Chairman of the CHATS Policy Committee from its inception to retirement. While Clyde became a powerful member of the House, he never forgot his roots from Oakley. He was always courteous, honest, and served his constituents to the best of his abilities. He always maintained a certain humility. He also tried to accommodate all viewpoints. Should all members of the General Assembly have conducted themselves like Clyde, ethics laws would not be necessary.

CLYDE SERVED HIS COMMUNITY

Again, time is not adequate to do justice to Clyde's many accomplishments. He founded and operated Suburban Gas and Appliance Company which he owned for 40 years. He was a charter member of the Isle of Palms Exchange Club, which was organized in 1948, and he served as its president. This club has always worked on projects to better the Isle of Palms community and continues to be a positive force. Clyde has always been active in the Boy Scouts and helped to serve as a role model for our youth. For his many hours of community service and dedication, Clyde was honored by receiving the Exchange Club's highest award, the "Book of Golden Deeds."

And, Clyde is a dedicated family man. He and Betty have been blessed with loving children and grandchildren who admire their father and granddad.

Now to the specific project. Clyde worked very hard to plan ahead to solve the traffic problems of the East Cooper area. When I was serving in the State Senate, he would stop by my office with various plans to alleviate the growing traffic congestion east of the Cooper. He finally decided that the best answer would be a connector that would tie in close to the then-planned Mark Clark Expressway.

After that he needed money to get an environmental impact study done. By that time I had been elected Governor and, of course, Clyde knew that I would have an interest in this project. He camped in my office until we found the money, and with it Clyde started this project that we so proudly dedicate to his honor today.

No man has worked harder, no man has been more dedicated, no man has been so persistent in getting this bridge completed, and I am honored to present him to you on this special occasion. Thank you, Clyde, and God bless you.

Ladies and gentlemen—a great community leader and patriot, Clyde Dangerfield.

TRIBUTE TO NICHOLAS C. WASICSKO

Mr. MOYNIHAN. Madam President, I rise today to recognize the passing of one of New York's most respected and decent public servants. Nicholas C. Wasicsko, former mayor and city council member of Yonkers, died this past Friday.

A man of only 34, Mr. Wasicsko has many accomplishments to his name. Aside from being a city council member and the city's youngest mayor, he was a former police officer, ward and district councilman, Democratic minority leader, member of the board for the Yonkers Industrial Development Agency, commissioner of the Yonkers Human Rights Commission, lawyer, son, husband, brother, and friend.

Nicholas Wasicsko may best be remembered as a defender of civil rights. In his first year as mayor, he waged an aggressive battle to set in motion a housing desegregation plan for the city of Yonkers. This noble act earned Mr. Wasicsko a runner-up citation for the 1991 John F. Kennedy Profile in Courage Award.

In my dealings with Mr. Wasicsko, I knew him to be a man of great courage and we are all diminished by this loss.

My thoughts and prayers are with Mr. Wasicsko's family and friends.

Madam President, at this time I ask that my statement and the following excerpt from Mr. Wasicsko's obituary be included in the RECORD.

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

[From the Gannett Suburban Newspapers, Oct. 31, 1993]

NICHOLAS C. WASICSKO: FORMER YONKERS MAYOR

Nicholas C. Wasicsko, a Yonkers city councilman and a former mayor of Yonkers, died Friday.

He was 34.

Mr. Wasicsko was former Westchester County policy officer. He served as 7th Ward councilman in 1986 and 1987, and he was mayor in 1988 and 1989. He lost a bid for reelection as mayor in 1989, but he returned to office in 1991 as 2nd District councilman. He was named Democratic minority leader.

Mr. Wasicsko was born May 13, 1959, in Yonkers to Nicholas and Anne Slota Wasicsko. He was a lifelong city resident.

His father died in 1985, before Mr. Wasicsko won his first election.

Mr. Wasicsko was a 1977 graduate of Gorton High School in Yonkers and a 1981 graduate of Manhattan College in the Bronx. He later graduated from New York Law School in Brooklyn.

On May 18, 1991, Mr. Wasicsko married Nay Noe, now Yonkers' 2nd deputy city clerk, at St. Casimir's Church in Yonkers.

Friends and family are making donations to the Nicholas Wasicsko Scholarship Fund, 111 Yonkers Ave., Yonkers, N.Y. 10701.

Arrangements are being handled by Duchynski-Cherko Funeral Home in Yonkers. A funeral service has been scheduled for 10 a.m. Tuesday at St. Casimir's Church, Nepperhan Avenue.

BETTER NUTRITION AND HEALTH FOR CHILDREN ACT

Mr. ROCKEFELLER. Madam President, I am proud to join the distinguished chairman of the Senate Agriculture Committee and others in cosponsoring this bill to promote better nutrition for children. Senator LEAHY's longstanding leadership and commitment is truly reflected in this comprehensive package to strengthen Federal nutrition programs for children, and it is an honor to be associated with him.

This initiative is a bold step toward fulfilling the promise of better nutrition and better health for children.

To help infants, children, and mothers, this bill truly invests in full funding for the Special Supplemental Food Program for Women, Infants and Children, known as WIC.

WIC enjoys such broad bipartisan support because it works. Every dollar invested in the prenatal component of WIC leads to greater savings in Medicaid for the newborns and mothers. For example, a GAO report estimated that the $296 million spent on prenatal WIC benefits in 1990 averted $853 million in health-related expenditures during the first year of life, and it will avert over $1 billion in these costs over an 18-year period. Any business leader will agree this is a good investment.

WIC helps our children, their mothers, and our society as a whole. This legislation charts a course that should deliver full funding of WIC through the year 2000.

As chairman of the National Commission on Children, I am proud to support an innovative approach designed to truly achieve full funding of the WIC Program as the Commission recommended in its unanimous bipartisan report in 1991. Working on this Commission was an intense, meaningful experience for me, and I am committed to working diligently to convert the recommendations of the Children's Commission into reality—step by step.

Genuine progress has already been made to implement the Commission's agenda with passage of the reconciliation bill this August. The expansion of the earned income tax credit, the investment of $1 billion in family preservation and family support, and efforts to boldly increase child immunizations are key steps in building a new agenda for children.

Promoting full funding of WIC through the Better Nutrition and Health for Children Act is a natural next step.

This legislation goes beyond WIC by providing greater support for older children through other program changes to promote better nutrition in schools and child care centers.

For schools, the legislation seeks to ensure that Federal dietary guidelines will be met in school lunch and breakfast programs that serve almost 12 million children nationwide, including about 200,000 West Virginia children. But this bill does more than impose requirements on struggling schools by offering real help for schools to achieve this important goal. The legislation provides additional funding for fruits, vegetables, more low-fat dairy products, and lean meat needed to offer nutritious meals.

This bill also invests in educational grants to help schools integrate nutrition education into the general health curriculum from kindergarten through high school.

We hope the combination of nutritious school meals and early education on nutrition will help children develop healthy eating habits that will last a lifetime and promote better health.

Acknowledging the dramatic increase in the need for child care to allow parents to work, the bill expands participation in the Child and Adult Care Food Program by allowing for-profit child care centers to be eligible if 25 percent or more of the children at the centers are from families who meet the guidelines for free or reduced price school meals. I have been working for such a change for several years to ensure that children in child care also get nutritious meals that will help promote health and well-being.

This bill is bold, but necessary. The major investments are in the WIC Program which we know will yield real savings in health care over the long run. While there isn't a cost analysis estimating how much better nutrition for children will promote school readiness and learning, common sense tells us this is true.

The Better Nutrition and Health for Children Act is an important investment in our children and future health care. It deserves bipartisan support and swift action.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1607, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1607) to control and prevent crime.

The Senate resumed consideration of the bill.

Pending:

Feinstein amendment No. 1097, to direct the United States Sentencing Commission to promulgate guidelines or amend existing guidelines to provide sentencing enhancements of not less than 3 offense levels for hate crimes.

AMENDMENT NO. 1097

The PRESIDING OFFICER. The Senator from California [Mrs. FEINSTEIN] is recognized.

Mrs. FEINSTEIN. Thank you very much, Mr. President.

Mr. President, last evening I introduced this legislation and today I would like to have the opportunity to speak to it.

I rise to speak to an amendment which is identical in its text to S. 1522, the Hate Crimes Sentencing Enhancement Act of 1993, which I introduced on October 6 of this year. When I did so, I was joined by my colleagues, Senators BOXER, CAMPBELL, INOUYE, and MOSELEY-BRAUN. I am pleased to report that since that time Senators D'AMATO, KOHL, LAUTENBERG, ROBB, DECONCINI, LEVIN, and MURRAY have joined as cosponsors.

Mr. President, this legislation recently passed the House by a bipartisan voice vote. It has strong bipartisan support and it is patterned after State legislation—as a matter of fact, Mr. President, from your State, Wisconsin—which was upheld by the United States Supreme Court in June. It will increase penalties now available for hate crimes under Federal sentencing guidelines.

Mr. President, this legislation is supported by the National Organization of Black Law Enforcement Executives, the Fraternal Order of Police, the National Association of Police Organizations, the Police Executives Research Forum, the NAACP, the Anti-defamation League of B'nai B'rith, the American Jewish Congress, the American Jewish Committee, the National Council of Jewish Women. It is supported by the Religious Action Network of the Union of Hebrew Congregation, by the National Gay and Lesbian Task Force, the Human Rights Campaign Fund, the Organization of Chinese Americans, the Japanese Americans Citizen League, and People for the American Way.

Mr. President, it is based on legislation passed in the early 1980's and it is based on a Wisconsin statute. Forty-nine States filed briefs in support of the Wisconsin law. The Clinton administration also filed a brief in support of this law.

As said by Chief Justice Rehnquist, "This opinion swept away the constitutional doubt that had surrounded the hate crimes issue for a period of time."

The legislation is aimed at conduct. It is not aimed at expression. And that is the difference between this legislation and other legislation.

I believe that it will help combat an escalating problem in our Nation, and I believe it is appropriate and fitting that it be a part of this crime bill.

Crimes in our country which target specific groups have increased and the time has come to see that the Federal Government develops an effective deterrent to these violent assaults simply by raising the stakes for those who would perpetrate these crimes.

In my own State of California, we have had a rash of hate crimes recently. In the past 3 months, there have been four racially motivated firebombings within a square mile in the Capital of Sacramento.

Last month a molotov cocktail was thrown through the front door of the Japanese-American Citizens League office in Sacramento, burning it to the ground. After the bombing an anonymous caller representing the Aryan Liberation Front said, "Anyone who shows support for the JACL will be shot." That has no place in a democracy.

Also last month, in the same city, the home of an elected official, Councilman Jimmy Yee, was firebombed. And, earlier this summer, the Sacramento chapter of the National Association for the Advancement of Colored People and the Congregation B'nai Israel were firebombed.

In one Los Angeles case, disaster was averted when Federal agents and Los Angeles police officers uncovered plots by white supremacists to assassinate Rodney King and prominent African-American and Jewish city leaders, and to blow up the First AME Episcopal Church. That is the African Methodist Episcopal Church. Those of us in California know it well, because it is one of the largest churches in the Los Angeles area.

A man by the name of Christopher David Fisher, the accused leader of the group known as the Fourth Reich Skinheads told authorities that he had participated in three bomb attacks including an attempted bombing of an Orange County synagogue.

In Los Angeles County alone, the level of hate crimes rose 11 percent in 1992 and hit an all-time high—736 incidents, including three murders.

This year they continue to rise. The LAPD reports that during the third quarter of 1993 there have been 165 incidents, a 19-percent increase over the same period in 1992. Things are not getting better. They are getting worse. Perhaps when the economy is difficult, people look out for scapegoats and they practice violence on their scapegoats.

There was a 37-percent increase in racially motivated hate crimes, and a 63-percent increase in hate crimes motivated by sexual orientation.

The Orange County Hate Crimes Network reports that hate crimes increased 25 percent last year. Of 188 cases reported to the Human Relations Commission, 61 were against African-Americans, 41 were against Asians, 25 were against gay men and lesbians, and 19 were against Jews.

But these heinous crimes are not limited to my own States; they are a national problem.

Last year in Texas, there were 339 hate crimes reported, including 6 racially motivated murders.

Last New Year's day, in Tampa, FL, two white men picked out an innocent African-American man by the name of Christopher Wilson, who was attempting to buy a newspaper. He was 32 years old. He was doing nothing other than buying a newspaper. They abducted him, they took him to a field, they doused him with gasoline, and they set him on fire while they verbally assaulted him with racial slurs. This has no place in the United States of America and we must show that it does not. Just recently these two men were convicted.

Last year, in Coral Springs, FL, young Luyen Nguyen, a 19-year-old who came to this country with his family 13 years ago, in search of a better life after the war in Vietnam, was punched and kicked to death by a mob of 15 young men shouting racial epithets.

In 1989, 24-year-old Ming Hai Loo was beaten to death, with the butt of a gun and a broken bottle, in Raleigh, NC.

In May of last year, a suburban Detroit lesbian couple was shot and killed in their front yard by a neighbor who had harassed them for 25 years.

According to the FBI, racial bias motivated 6 out of 10 hate crime offenses reported in 1991. Of those bias crimes, 36 percent were directed against African-Americans.

In addition, the Klanwatch Project of the Southern Poverty Law Center found that the number of white supremacist hate groups increased by 27 percent from 273 to 346 in 1991. I never thought the United States of America would have 346 white supremacist hate groups, in our country. We do today. And that is up 27 percent.

The Anti-Defamation League's 1991 national survey of anti-semitic attacks showed 1,879 incidents of vandalism, harassment, or violence, an increase of 11 percent over 1990 totals. In fact, there was a steady increase in these attacks from 1985 to 1991.

The National Gay and Lesbian Task Force reported a 31-percent increase in antigay and lesbian violence between 1990 and 1991 in five major cities: Boston, Chicago, Minneapolis/St. Paul, New York, and San Francisco.

In a sense there was a clarion call for action that took place in Flint, MI, in 1982, 11 years ago, when Vincent Chin, a Chinese-American, was beaten to death with a baseball bat by two unemployed auto workers because they thought he was Japanese and they resented Japanese-Americans because of the Japan auto industry.

I do not think this Nation can tolerate crimes that are motivated simply by picking somebody out because of skin color, because of sex, because of sexual orientation, because of religion, and beating them up simply because they happen to have a certain belief or they happen to be of a certain color. This also happens to people who are

fundamentalist Christians; somebody selects them and comes out and beats them up.

The question is, Can that be stopped? I believe it can be. I believe, by enacting this legislation as part of the crime bill, the U.S. Senate says clearly and definitively we are not going to tolerate this. And the way we are not going to tolerate it is we are going to say what is a hate crime, as defined, which is what this legislation does, and we are going to require the U.S. Sentencing Commission to promote new sentencing guidelines for hate crimes, and we are going to require them to increase the penalty by at least three offense levels if a crime is specifically perpetrated and motivated by hate because of skin color, because of religion, because of sex, or because of sexual orientation.

I believe if our Nation says clearly and definitively we will not tolerate this kind of crime, it will have a deterrent effect. A jury will make a finding of the assault or the murder, and then the jury, if that assault or murder is brought about by hate, will effectively add one-third to the sentence that the individual would receive normally.

I found when I was mayor and we had a rash of fire bombings, that special efforts do work. They do send a message, and the message is we will not tolerate this. That is the message of this legislation. We will not tolerate hate crimes in the United States of America because that is not the concept on which our freedom, the Constitution, the Bill of Rights, or any other document is based in this Nation.

It is based on tolerance, and it is based on a number of different people getting together and being able to live a life of freedom and opportunity in the strongest, finest country in the world.

I believe this is legislation whose time has come. I believe it is legislation that will work. I know there are those who will deride it. I know there are those who will say, Why should we do this? Why should we not do it for somebody who is hearing impaired? Why should we not do it for somebody who is disabled?

The point of this is there is a problem out there; these crimes are increasing. I remember in San Francisco when I was home last, right across the bay a young Asian student gets off a BART train and he is shot dead. He is not robbed, he is just shot dead. We have to stop this from happening.

Particularly at a time when there is great dialog over immigration, we have to say clearly we will fight those battles in these Chambers but we will not tolerate somebody going out and murdering or viciously beating someone simply because they are black or Asian or Catholic or Protestant or Jewish or fundamentalist Christian or gay. That is not what this Nation is about.

I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 1098 TO AMENDMENT NO. 1097

(Purpose: To confirm the original intent of Congress in enacting sections 2252 and 2256 of Title 18, United States Code)

Mr. GRASSLEY. Mr. President, on behalf of Senator ROTH and myself, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for Mr. ROTH, for himself, Mr. GRASSLEY, Mr. THURMOND, Mr. COATS, Mr. HATCH, Mr. NICKLES, and Mr. HEFLIN, proposes an amendment numbered 1098 to amendment No. 1097.

Mr. GRASSLEY. 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:

At the end of the pending amendment insert the following:

SEC. . CONFIRMATION OF INTENT OF CONGRESS IN ENACTING SECTIONS 2252 AND 2256 OF TITLE 18, UNITED STATES CODE.

(a) DECLARATION.—The Congress declares that in enacting sections 2252 and 2256 of title 18, United States Code, it was and is the intent of Congress that—

(1) the scope of "exhibition of the genitals or pubic area" in section 2256(2)(E), in the definition of "sexually explicit conduct", is not limited to nude exhibitions or exhibitions in which the outlines of those areas were discernible through clothing; and

(2) the requirements in section 2252(a)(1)(A), (2)(A), (3)(B)(i), and (4)(B)(i) that the production of a visual depiction involve the use of a minor engaging in "sexually explicit conduct" of the kind described in section 2256(2)(E) are satisfied if a person photographs a minor in such a way as to exhibit the child in a lascivious manner.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that in filing its brief in United States v. Knox, No. 92-1183, and thereby depriving the United States Supreme Court of the adverseness necessary for full and fair presentation of the issues arising in the case, the Department of Justice did not accurately reflect the intent of Congress in arguing that "the videotapes in [the Knox case] constitute 'lascivious exhibition[s] of the genitals or pubic area' only if those body parts are visible in the tapes and the minors posed or acted lasciviously.".

Mr. GRASSLEY. Mr. President, also—I just got word of this—Senator HEFLIN wants to be a cosponsor.

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

Mr. GRASSLEY. Mr. President, the amendment offered by the Senator from Delaware, the Senator from Iowa and others, is offered in response to the reversal of a very longstanding Justice Department position dealing with child pornography. The Justice Department has just filed legal briefs containing arguments that, if these arguments are adopted by our courts, will threaten the right of every child to be free from sexual exploitation.

We passed legislation in 1984 to protect children from sexual exploitation. We entitled that the Child Protection Act of 1984. In that act, we said what we meant and we meant what we said. Congress prohibited using minors in pornographic materials. We did not require that those children being used for pornographic purposes be nude. We recognized that young children—we recognized at that time and I think we still recognize—that young children in their innocence often do not appreciate the significance of their acts. So we prohibited materials that used the minor engaging in lascivious displays of their private parts. We did not require that the minor herself intend to act lasciviously. Of course not. No young child even knows what it means to act lasciviously.

The relevant intent has always been that if the pornographer poses a child in a lascivious manner, the material is child pornography. The person's intent that matters is that of the criminal, not that of the innocent child.

The Justice Department's view of the statute, however, would create a safe harbor for child pornographers and for pedophiles. Any covering, however skimpy that covering might be, would preclude application of the statute if we let the Department's present point of view stand. But if the pornographer zooms in a long time for a closeup of the minor's private parts, the material would not then be criminally prohibited, if we follow the Department of Justice's new view of this 1984 statute.

Further, the Department also would create a safe harbor for child pornography so long as the child herself did not pose lasciviously. Child exploiters could drive a truck through the holes in the statute that that interpretation, by our present Department of Justice, will open.

The Roth-Grassley amendment will put Congress on record to reaffirm the original intent of the Child Protection Act of 1984. I had quite a bit of involvement in the passage of that act in 1984.

Nudity is not required for the material to be child pornography, and the relevant actor—and this is the most important thing—the relevant actor who must act lasciviously is the pornographer, not the child.

Moreover, the amendment declares the sense of Congress that the Justice Department's brief that was filed in the case of Knox versus United States misconstrued congressional intent in enacting the Child Protection Act of 1984. Mr. President, we have heard that unless the Department's reversal of its position is adopted, people who produce lingerie advertisements will be criminals. Now how foolish of an argument. Strictly nonsense. Advertising producers do not intend to pose children lasciviously. The first amendment does not protect child pornography—the Supreme Court has been very clear on

that—as it does not protect obscenity. And there is no truth to the claim that the first amendment requires the Government's new interpretation of this statute.

Mr. President, I think we need to ensure that children are protected from those who would exploit and those who would abuse the children to make profit off the sick preferences of pedophiles. In fact, we passed legislation in 1984 to prevent these very evils from ever occurring in the first place. Today, this Justice Department, despite its often-expressed deep concern for children, threatens to jeopardize the Government's ability to punish those who exploit our Nation's children.

So I hope that all my colleagues will join Senator THURMOND, and the ranking Republican on the committee, and now it is bipartisan with Senator HEFLIN, and Senator ROTH, who has a long-term interest in child pornography, and myself in again expressing the view that Congress in 1984 did, in fact, outlaw these materials regardless of the nudity of the child and regardless of whether the child actually intended to act lasciviously.

I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I am pleased to join with my distinguished colleague from Iowa in this amendment. I want to acknowledge his leadership in this important matter that has been longstanding from his service in the Senate.

As the distinguished Senator from Iowa said, the Roth-Grassley amendment expresses the sense of the Senate in opposition to the Supreme Court brief filed by the Department of Justice in September 1993 in the child pornography case of Knox versus United States.

I believe the Knox brief is a travesty and a tragedy. It is a travesty in that it completely misrepresents congressional intent in passing the Child Protection Act of 1984. It is a tragedy because it creates a huge new loophole in our child pornography laws which will likely lead to a flood of child pornography and sexual abuse of children.

I do not make these assertions lightly.

The Clinton Justice Department in the Knox brief asked the Supreme Court to set aside a judgment upholding the second conviction of a man who had already previously been convicted under the Federal child pornography laws. The Justice Department told the Supreme Court that the appeals court has used "an impermissibly broad standard" to interpret and apply the law. The Clinton administration maintained that the appeals court should be ordered to reconsider the case under a narrower standard. In a reversal of its previous interpretation of the Federal child pornography statute, the Justice Department argued that this narrower standard meant nudity or visibility of genitals is required for conviction; and that the material "must depict a child lasciviously engaging in sexual conduct," as opposed to lasciviousness on the part of the photographer or consumer.

Mr. President, this new definition, invented by the Justice Department out of whole cloth, is most disturbing. Many children who are exploited for child pornography are too young to understand what they are doing, much less understand what lascivious behavior or even what sex is. Does the Justice Department now expect that under its new standard prosecutors will have to locate and interview young children depicted in pornographers' films so that prosecutors can determine whether they thought they were acting—that is, whether the children thought they were acting—lascivioulsy? Obviously, that would be impossible, and it would be ludicrous.

Why do I call this outrageous Department of Justice action a flip-flop? Because in March, 1993, the acting Solicitor General filed a brief in the Knox case arguing that the third circuit had properly upheld the convictions and that the legislative history supported that Court's decision. But in December 1993, the new Solicitor General filed a brief arguing precisely the opposite.

Unfortunately, when confronted with the Department's flip-flop brief, the Supreme Court, figuratively speaking, threw up its hands. Since the prosecutor and the pedophile were now on the same side, the Supreme Court on November 1 dismissed the petition for certiorari, vacated the third circuit opinion and remanded the case for reconsideration in light of the flip-flop brief filed by the Solicitor General.

Will Department of Justice prosecutors vigorously pursue the Knox case now that the strong antipornography opinion of the third circuit has been vacated? That is a question the Attorney General will have to answer, but here is what the New York Times reported about the Knox case on November 2, 1993:

> The order that the Court issued today instructed the Third Circuit, which sits in Philadelphia, to reconsider the case in light of the Government's current position. Before the appeals court does that, however, Federal prosecutors are likely to drop the prosecution. Government lawyers who have seen the tapes at issue have said privately that they fall well below the standard for prosecution described in the Government's new definition.

Yes, that is the tragedy. The Solicitor General, in filing this brief, has now set a new standard which all Federal prosecutors will presumably have to follow. How many child pornography cases now under investigation or prosecution will have to be dismissed under this new standard? The Attorney General will have to answer that question. But, according to the former head of the Department's Child Exploitation and Obscenity Section, much or even most of the Justice Department's child pornography prosecutions would have to be dismissed under this new standard.

What was the pornography involved in this case? The key holding of the third circuit was that, under Federal law, "clothed exhibitions of the genitalia are proscribed" when "a photographer unnaturally focuses on a minor child's clothed genital area with the obvious intent to produce an image sexually arousing to pedophiles." That is exactly what the facts show happened in this case.

This is how the video tapes involved in this case were described by the Justice Department in its first brief: The tapes showed various females between the ages of 10 and 17 dressed in bathing suits, leotards, underwear, and other similar attire. The children struck provocative poses, apparently at the direction of someone off-camera. The camera would typically zoom in on the children's pubic and genital areas and display a closeup of that area for an extended time. The tapes themselves and the promotional materials showed that the tapes were designed to pander pedophiles.

An advertising catalog for these tapes included the breathless description of—I am quoting—"bathing suits on girls as young as 15 that are so revealing it's almost like seeing them naked (some say even better)."

Mr. President, I was one of the original Senate sponsors of antichild-pornography legislation with some of my efforts dating back to 1977. I took an active role in the passage of the 1984 Child Protection Act. In 1986, after a 2-year probe, which I directed, the Permanent Subcommittee on Investigations issued a report on the relationship between child pornography and the sexual abuse of children. The key findings of the investigation were that child pornography plays a central role in child molestations by pedophiles. Child pornography is used by pedophiles to justify their own conduct, to assist them in seducing their child victims, and sometimes as a means to blackmail the children they have molested in order to prevent exposure.

When Congress passed the 1984 anti-child-pornography legislation, we meant to stamp out the business of child pornography in this country and to stop the sexual exploitation of our children by pornographers and pedophiles. Until now, the legislation and enforcement efforts have been remarkably successful. But now the Clinton Justice Department's brief represents a major setback to these efforts. It is no exaggeration to say that

the Justice Department has created a giant loophole that has the potential for resuscitating the child pornography industry in the United States. Why is the Department of Justice pursuing this course of action when Attorney General Reno has made prevention of abuse of children a top priority of her Department? We need some answers to these questions. In the meantime, we need to pass this amendment and send a message to the Department of Justice. We want child pornography laws enforced. We do not want new loopholes created for the benefit of pedophiles through strained interpretations of legislative history.

Our children want justice from the Justice Department.

Mr. President, I have sent a letter to the Attorney General in which I respectfully request answers to a number of questions. I would just like to read what those questions are.

One, Will the Department of Justice stop prosecution in the case of United States versus Knox? Two, Will the Department of Justice prosecutors be required to follow the standards set forth in the Knox brief when undertaking future prosecutions of child pornography cases? Three, Will any current prosecutions be terminated because of the new standards announced in the Knox brief? If so, how many and in what district? Four, Will any pending investigations be terminated because of the new standards involved in the Knox case? If so, how many and in which districts? And, five, Will the Department of Justice have under consideration plans to eliminate or merge the child exploitation and obscenity section of the criminal division?

Mr. President, I think we can all agree that child pornography is a most sensitive and important issue. It is one that the Supreme Court recognizes we have a right to prevent, to avoid.

I hope that the Senate will unanimously adopt the amendment proposed by Senator GRASSLEY and myself.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, let me begin by complimenting my colleague from Delaware and my friend from Iowa.

As the author of this legislation, the Biden-Thurmond bill that is being referred to here and has been interpreted by courts, I stand here to say that our intention was as outlined by my distinguished friends from Delaware and Iowa.

If, in fact—to answer the Senator's, my senior colleague's, questions relative to the Justice Department—if, in fact, after passing this resolution, which I believe we are prepared to accept, and I expect will pass, if not unanimously, near unanimously, if we vote on it; if, in fact, the court, the lower court, and/or the Supreme Court at the urging or absent the urging of the Justice Department concludes that it is still not the intent, I can assure my colleagues, and I know Senator GRASSLEY as a member of the committee would need no urging, that I will along with him and move to amend the Biden-Thurmond legislation to make it clear that this was not intended.

There is only one point of departure I have with some of the things that were said today. The truth of the matter is this is an exceptional case. The truth of the matter is the most serious child pornography cases that we are attempting to deal with and have dealt with through this legislation over the last 7, 8, 9 years, whatever it has been, are attempts that relate to incredible exploitation of children.

So although this is, in my view, a misinterpretation of what was intended by Congress, and clearly by the author, one of the two authors of the legislation, it is in fact not nearly the hole through which child pornography will be driven. But, nonetheless, it should be filled, it should be blocked. That hole should be closed. And I sincerely hope that when we pass this amendment, and as I understand it, although I was necessarily absent from the floor for about 6 or 7 minutes when my distinguished colleague from California yielded the floor on her hate crimes amendment, this was a second degree to the hate crimes amendment. Is that correct?

Mr. ROTH. That is correct.

Mr. BIDEN. If I can kill two birds with one stone, as they say, I would like to take a few minutes to speak to the hate crime amendment. I hope that we can pass the underlying amendment and the controlling amendment here by unanimous consent or by voice vote, or get a vote quickly on it if there is an insistence on a roll call vote.

I want to compliment my friend from California. Although she has significant experience in Government, she has been here only a little while and already has taken a lead on law enforcement issues in the criminal justice system in trying to deal with crime in this country. For that, I compliment her, and I might add, her efforts are prodigious and unrelenting. I love seeing her, but I see her more than I ever anticipated seeing her. And, on occasion, I see her, with requests to deal, relative to anticrime legislation, with the rare occasions when we disagree.

But I have found whether I agree or disagree with her, it is irrelevant. It in no way loosens her fervor for her point of view. But all kidding aside, she is an incredible welcome addition to this effort. And I cannot tell her how much I appreciate her effort.

Let me speak specifically to her amendment very, very briefly.

Mr. President, I am pleased to support the amendment offered by the Senator from California. Her amendment confronts a subject that has rightfully received substantial recent attention: Crimes committed because of the race, sex, religion, national origin, ethnicity, color, or sexual orientation of the victim.

Throughout the country, in cities and rural communities, on college and university campuses, and elsewhere, incidents of hate-motivated conduct are on the rise. This is a serious crime problem—one that deserves special attention due to the compounded burden on victims who are targeted because of who they are.

Through this amendment, we can take a stand against violence motivated by hatred.

The amendment is consistent in this sense with my Violence Against Women Act, which would give the victim a civil cause of action for acts of violence motivated by gender.

The language is appropriately limited, in that it requires clear proof of the hate-based motivation for the crime prior to permitting any sentencing enhancement. And it has been carefully drafted to comport with the requirements of the U.S. Constitution.

The amendment punishes hate crimes, not hate speech. In this respect, it is substantially similar to the Wisconsin statute upheld by the Supreme Court this past summer in the case of Wisconsin versus Mitchell. Let me speak for a moment about the Court's precedents, which distinguish these two categories of hate speech and hate crime.

In its 1992 decision in the case of R.A.V. versus City of St. Paul, the Supreme Court invalidated a hate speech law used to prosecute a person for burning a cross on the lawn of a black family.

The law purported to criminalize displays of symbols—including burning crosses and nazi swastikas—that cause injury on the basis of race, sex, creed, color, or religion. The courts construed this statute to proscribe certain fighting words—a category of speech exempt from first amendment protection.

The Supreme Court struck down this statute because it punished some fighting words, and not others—because the statute punished based on the content, or viewpoint, of the speech.

For example, the statute criminalized fighting words that insult and injure based on gender, but it permitted fighting words that inflame and injure through insults about a person's mother, or her neighborhood, or all manner of other matters unrelated to race, sex, religion, creed, or color.

In contrast, the Supreme Court upheld the hate crimes statute in Wisconsin versus Mitchell. Like the amendment offered by the Senator from California, the Wisconsin statute enhanced criminal penalties when the victim is selected on the basis of his or her race, religion, color, disability, sexual orientation, national origin, or ancestry.

Because the statute enhanced penalties for otherwise unlawful conduct, the Court concluded that the law properly punished underlying criminal conduct. A criminal's motives, the Court reasoned, have traditionally been considered in determining a penalty.

This amendment introduces nothing new or unusual into our law. In punishing conduct motivated by hatred, the amendment is not unlike the vast array of noncriminal civil rights statutes already on the books—statutes that prohibit certain conduct based on race or sex or religion.

So, again, I am pleased that this amendment comports fully with the Supreme Court's holdings in this area. Like the Wisconsin statute, this amendment addresses itself solely to criminal conduct and enhances penalties based on the criminal actor's motives.

I thank the Senator for her sponsorship of this amendment and look forward to supporting it.

Mr. President, the language of the Senator from California that she has introduced in her hate crimes legislation is appropriately limited in that it requires clear proof of a hate-based motivation for the crime prior to permitting any sentencing enhancement, and it has been carefully drafted to comport with the requirements of the U.S. Constitution, something that is not always done here on the floor.

The amendment punishes hate crimes, not hate speech. In this respect, it is substantially similar to the Wisconsin statute upheld by the Supreme Court this past summer in the case of Wisconsin versus Mitchell. When the Supreme Court upheld that statute, like the amendment offered by the Senator from California, the Wisconsin statute enhanced criminal penalties when the victim is selected on the basis of his or her race, religion, color, disability, sexual orientation, or national origin or ancestry.

So again, I am pleased that this amendment comports, in my view, fully with the Supreme Court's holdings in this area. Like the Wisconsin statute, this amendment addresses itself solely to criminal conduct and enhances penalties based on the criminal actor's motive.

I thank the Senator for her sponsorship and leadership.

I point out that the ranking member of this committee has worked more on hate crimes legislation and helped fashion constitutionally permissible legislation more than the Senator from Delaware has, or I suspect one or two other people on this floor, or as much as anyone.

So I compliment him for having brought us this far along in the legislation over the past 2 years. I think and I hope that he will agree that the amendment of the Senator from California here is a worthy constitutional and necessary addition at this point.

So I suggest that—I will yield in just a moment to anyone; but my colleague from Utah—I suggest that we pass both the hate crimes amendment and the underlying, the additional amendment attached to it relative to child pornography.

I think they are both in order. They are both appropriate. I would like to see them both move very quickly so we can move to the next 7,487 amendments I expect are going to be offered on this bill.

I yield the floor.

Mr. HATCH. Mr. President, I want to thank my colleague from Delaware for his kind remarks with regard to both of these amendments. I intend to speak on both of them in just a few minutes.

I ask for the yeas and nays on the Grassley-Roth-Hatch amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. Mr. President, I want to compliment my two colleagues from Iowa and Delaware. I do not know of a more important issue in the whole crime area than worrying about combating child pornography.

I join with them on this amendment because I think it makes a lot of sense. I want to compliment the distinguished Senator, the chairman from Delaware, for his willingness to make sure that the Justice Department's interpretation does not become the law of this land.

I will also support a second Grassley amendment to combat child pornography, which I understand will be offered later. Child pornography is an evil that no moral society can tolerate.

Its victims, which are young children worldwide, who are exploited are especially vulnerable. The second Grassley amendment would provide a penalty for international trafficking in child pornography. The international market for child pornography has, sadly, continued to grow. This amendment is needed to help put an end to this horrible business.

The Grassley amendment would also increase other penalties for child pornography and would encourage States to combat child pornography. The Clinton Justice Department, as has been explained, has shown that it is not serious about combating child pornography. Its position on the child pornography statute recently before the Supreme Court is simply bewildering. With an administration that appears unconcerned about the spread of child pornography, it is all the more important that we in Congress act strongly on this issue.

I want to associate myself with the remarks of the distinguished Senators from both Iowa and Delaware, Senator GRASSLEY and Senator ROTH, in describing what really has happened. I think it is abominable that we have to be in a position where the Government is siding with the position and the defense of the pedophiles and of the child pornographers, rather than siding with the position and the beliefs on the side of the child and the clear intent of the law. It is pretty apparent what the photographs were for, and it was pretty apparent what the videotape was for. It is pretty apparent what they are trying to do.

Frankly, the antichild pornography bill is one that I have been a sponsor of and have helped to put through the Congress, and I do not see how anybody could interpret it the way the administration and the current Justice Department is interpreting it.

So I hope that we pass this amendment, and if the Justice Department continues to take the position that it has, I will join with our distinguished chairman of the committee, and we will do what we can to make sure there is no question on the interpretation of the statute that we have passed in the past.

Mr. President, I also want to spend a few minutes on the hate crimes amendment of the distinguished Senator from California—that is, the underlying amendment, the pending Feinstein amendment. It is similar to the Hate Crime Sentencing Enhancement Act which she introduced—I was a leading cosponsor of that—which passed in the 101st Congress. There was a time when we questioned that we could even get it through the U.S. Senate. But finally we had the guts to bring it up and we got it through.

There has been a lot of criticism of it, but it was the right thing to do. That legislation directed the Department of Justice to keep records on a number of reported hate-based crimes, so at least we know how bad it is in our society; they are in the process of doing that now.

This amendment by the distinguished Senator from California—a new addition to our Judiciary Committee, but one who has I think made a difference since she has been on the committee—would require the sentencing commission to amend its guidelines or promulgate new guidelines for enhancing the penalties for crimes motivated by hate by at least three offense levels. The amendment describes hate crimes as "a crime in which the victim or property against which the crime is committed is intentionally selected on the basis of the actual or perceived race, color, religion, national origin, ethnicity, gender, or sexual orientation of any person."

I want to be clear about what this amendment is about and what it does. It does not federalize hate crimes; nor does it create a Federal hate crime statute. Instead, it simply provides for enhanced penalties for existing Federal crimes if they are motivated by hate. It is estimated that an enhancement of

three severity levels would, on average, increase sentences by one-third.

For example, a Federal assault conviction brings with it a base offense level of 6 which translates into zero to 6 months imprisonment. An increase of three levels to offense level 9 would result in a sentence of 4 to 10 months. Sentencing enhancements under the guidelines are already in place for other serious relevant conduct. For example, if the victim of an offense was unusually vulnerable due to age or physical condition, the sentencing guidelines increase the penalty. If the victim was a Government employee, the guidelines require an enhanced penalty. This amendment is consistent with existing victim-based sentencing enhancements.

The constitutionality of this provision is clear. In Wisconsin versus Mitchell, a 1993 case, the Supreme Court unanimously held that carefully constructed laws providing for stiffer sentences for criminals that commit hate crimes do not violate the first amendment. In the Mitchell case, the court upheld a statute similar to the Feinstein amendment.

Regarding sexual orientation—I appreciate the view of some of my colleagues that we should remove the sentencing enhancement for crimes based on "sexual orientation." Yet, in my view, violence based on sexual orientation is just as repugnant and immoral to me as hate based on religion, race, or some other sort of bigotry. Although I may not approve of their lifestyles—and I do not—homosexuals are as entitled as anybody else to be free from violence based on the characteristics that hatemongers may target. I have a rough time seeing how anybody can argue with that.

Let me ask the distinguished Senator from California a question. Unlike other guideline enhancements which are proved by a preponderance of the evidence during the sentencing phase of the trial, under this amendment the enhanced penalties would only apply when a hate crime was proved beyond a reasonable doubt. So there is a definite distinction in this hate crimes amendment.

The enhanced standard of proof, in the eyes of many, could be a troublesome precedent. Can my colleague please explain why there is an enhanced burden of proof for these sentencing enhancements in this particular case with regard to her amendment?

Mrs. FEINSTEIN. Mr. President, I would be happy to answer that question. I think there are two reasons. A fundamental reason is: In order to put together the bipartisan support in the House, Congressman EDWARDS and Congressman HYDE worked together on this legislation. They raised the standard of proof to be certain that the crime was motivated beyond a reasonable doubt on the basis of race, creed, color, sexual orientation. And so that is the reason that we took similar language to the House.

It is my belief that the legislation now has a very good chance of surviving, because the House raised the burden of proof, and we are also raising the burden of proof.

Mr. HATCH. I appreciate my colleague's comments. The feeling on the part of some is that this new standard could also apply in other cases like drug offenses.

In other words, defense lawyers can say if you did it for hate crimes, then you have to do it for drug offenses. None of us wants to see that. It could be argued that Congress signals that a higher standard should apply to all or some penalty enhancements. We do not want that. The practical effect of this provision is that the courts could be required to impanel juries to determine whether a defendant's conduct was related to sentence enhancements.

I happen to agree with my friend and colleague from California and the two leaders of the House, Congressman EDWARDS and Congressman HYDE, who are both friends—not that that makes a difference, because I agree with them whether or not they are friends. They are doing a very thoughtful thing here. What they are basically saying is that hate crimes are difficult to establish and define. They really take some effort. And because they are difficult, it is better to have that higher standard of beyond a reasonable doubt in the area of hate crimes. And they are carving that out specifically and only for the area of hate crimes. I do not want anybody to make any mistake. There are arguments to try and apply that to all other crime enhancements other than hate crimes, and I am going to fight that with everything I have.

But I agree with what the distinguished Senator from California has done, and I agree with her explanation, which I think makes a very effective and fair assertion of what she really is trying to do and what our colleagues in the House are trying to do.

These are hate crimes. There are some people who have difficulties because it is a nebulous area. There could be more opportunity to accuse someone of a hate crime where maybe the accusation should not be made. Therefore, I think it is an appropriate carve-out or very narrow exception to penalty enhancement, sentence enhancement that I think is highly justified under the circumstances.

I just wanted to establish that from the mouth of the principal sponsor. So I appreciate her comments on that.

Mr. President, I have mentioned about the anti-child-pornography amendment. I think this is sending a message to this administration and the Justice Department we are not going to tolerate the interpretation the Solicitor's office made in the Knox case. I think this is as nice a way of sending that message as I know. If they do not get that message, then we are going to change the law to make it even more clear that we are not going to tolerate this type of pedophilia and this type of child pornography and this type of exploitation of children.

So I hope that we will all support the distinguished Senator from Iowa and the distinguished Senator from Delaware and others like myself who are cosponsors of this amendment.

At this point, I ask unanimous consent that Senator KASSEBAUM also be added as a cosponsor of the Roth-Grassley-Hatch sense-of-the-Senate amendment on child pornography.

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

Mrs. FEINSTEIN. May I be a cosponsor?

Mr. GRAMM. Mr. President, add me as a cosponsor.

Mr. HATCH. Mr. President, I also ask unanimous consent that the distinguished Senator from California [Mrs. FEINSTEIN] and also the distinguished Senator from Texas, Senator PHIL GRAMM, be added as cosponsors.

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

Mr. HATCH. Thank you.

I just want to say that both of these amendments are important. Both of these amendments should pass. I do not see any good arguments against either of these amendments. I hope all of us will vote for both of them and send a message throughout this society we are not going to tolerate the interpretation of the Justice Department and the Solicitor on this matter on child pornography and not going to tolerate hate crimes in this society. Where they are already in the law and we can prove there was a hate crime involved beyond a reasonable doubt, then there ought to be sentencing enhancement. I agree with that.

And with that, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. HEFLIN. Mr. President, I rise to join as a cosponsor of the Roth-Grassley-Hatch sense-of-the-Senate resolution expressing concern over the most recent actions of the Solicitor General in the area of child pornography.

Senator GRASSLEY and I recently circulated a "Dear Colleague" letter, obtaining the signatures of close to 30 Senators, which was addressed to the Attorney General expressing our concern regarding the change that the Department of Justice has taken in the case of United States versus Knox.

I continue to be disappointed with the Justice Department's recent maneuvering in the case of United States versus Knox and believe that we in the Senate must express our misgivings about these actions. In doing so we must affirm our support for strict anti-

child-pornography legislation, which was adopted in 1984. I was a sponsor of the legislation commonly known as the Child Protection Act. I believe Congress set forth proper standards in the Child Protection Act, standards that still need to be respected today.

Mr. President, I find this policy change on the Department of Justice very troubling.

I believe that the arguments in the brief filed by the Department of Justice constitute a disregard of the intent of Congress when enacting legislation which clearly prohibits the receipt and possession of child pornography. In essence, the statutory law does not allow for the interpretation currently being promoted by the Department. This reversal of policy by the Department of Justice will give child pornographers wide latitude and allow for the exploitation of our Nation's children.

The most recent position taken by the Department of Justice holds that this statute is not applicable unless specific body parts are discernible. It additionally states that the child must engage in sexually explicit conduct. Again, neither of these new positions support the statutory language of the Child Protection Act of 1984. The language of this act clearly prohibits the "producing of the visual depiction involving the use of a minor." In essence, the Department of Justice's approach takes the burden off of the pornographer and places that burden on the child.

I am deeply disturbed by these actions of the Solicitor General. Congress should do all in our power to protect the children of this Nation, and yet the most recent actions by the Department of Justice moves us in the wrong direction.

I urge my colleagues to join in support of this resolution.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I thank you for recognition.

Let me first say that I rise in strong support of both the underlying amendment and the second-degree amendment.

The underlying amendment focuses on something that we all agree on, and that is crime is a terrible thing under any circumstance, but when it is driven by hate, when it singles out people based on prejudice or bigotry, we ought to put additional punch in the penalties.

I think this is a good amendment. I congratulate the distinguished Senator from California for working with Members of both parties in both Houses to come up with a workable amendment, and I intend to support it.

The second-degree amendment is an amendment which I have cosponsored, and it is basically saying to the Clinton Justice Department we are tired of child pornography and we want to punish those who produce it or profit from it and we want to go after it with as much force as we can muster.

So I support both of those amendments.

I wanted to take this opportunity to talk about the crime bill and to talk about issues that are coming up, but before I do, Mr. President, I want to say something about an amendment that we voted on just last week, an amendment that is going to be voted on in the House today. And I would like to alert my colleagues to the fact that we have had a scoring of that amendment by the Congressional Budget Office.

As many of our colleagues will remember, Senator GRASSLEY and I offered an amendment to enforce the President's reinventing Government provision by putting a cap on total Federal employment and mandating in law that there be a reduction of 252,000 Federal employees over 5 years through attrition; that there be established a system where quarterly the Office of Management and Budget would report on the achievement of this goal; and that there be an automatic trigger that kicks in a hiring freeze if the President's goal is not being met. That amendment, I am happy to remind my colleagues, passed in the Senate 82 to 14.

That provision is being taken up today at 1 o'clock in the House. There will be a motion to instruct conferees.

I wanted to let my colleagues know that when members of the Ways and Means Committee of the House asked the Congressional Budget Office to score that amendment to determine how much savings would accrue if we actually fulfilled its objectives, the Congressional Budget Office estimated that the enactment of the amendment that I offered with Senator GRASSLEY would save $21 billion over the next 5 years.

So I wanted to let my colleagues know about that. I think it is very important that that amendment become the law of the land. There will obviously be an effort to defeat it by those who do not support the President's objective of reinventing Government, cutting red tape, reducing the size of the bureaucracy, but as our vote in the Senate shows there is very strong support here.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. GRAMM. I am happy to yield.

Mr. BYRD. Mr. President, I am aware of what the distinguished Senator has said with respect to the Congressional Budget Office and the position he has taken vis-a-vis scoring and the amounts of money involved. I was alerted to that this morning. Because of that, I plan to offer an amendment to the crime bill that will certainly provide a way by which it may be funded. I may not be for the current bill and I may be for it. I certainly recognize the terrible problems that confront this country, this city, and every other city in the country.

There may be some aspects of the bill that I would rather have changed, and I will vote to change. But inasmuch as the distinguished Senator has made this statement with respect to the Congressional Budget Office, the Ways and Means Committee of the House, and the amendment which was recently offered by the Senator from Texas, which I voted against, but it passed, it passed the Senate, and I was just over here to tell the chairman, Senator BIDEN, that I was working on an amendment which would provide the funding.

I also told him there might be some aspects of the bill that I want to rewrite. I do not necessarily commit myself to vote for this bill, and I do not even want by that to imply that I am 90 percent against it, but I do want to try to help to find the money for a crime bill.

I notified him of that. I just want to notify the Senate of that also, and I thank the distinguished Senator for yielding.

Mr. GRAMM. Mr. President, I am always happy to yield to the distinguished chairman of the Appropriations Committee.

Let me just begin where he left off. First of all, I want to congratulate the chairman of the Judiciary Committee and the ranking member for bringing this bill to the floor. I think if there is one issue in America that people feel strongly about and an issue which has no tint of partisanship, at least in the minds of the American public, it is crime.

I think the American people are outraged that people of this country are brutalized by violent criminals. When we look at the headlines of our newspapers today, we see almost endless accounts of brutal attacks on law abiding citizens, of violent murders, and almost always they have one thing in common.

We all were shocked by the lady near Washington, DC, who was brutally murdered in a carjacking and her body was dragged for a mile and a half and her baby was thrown out in the street. In fact, we were so shocked that we responded to that by passing a law making it a Federal crime to engage in carjacking.

Needless to say, the whole Nation was shocked and outraged by the murders that have occurred in Florida. Michael Jordan's father being brutally murdered was something that caught the attention and I think touched the heartstrings of every American. There are literally thousands of these cases.

Almost every one of these cases has one thing in common. What it has in

common is the people that brutalized other people, the murderers, were people who should have been in prison. They were people who had already been apprehended, who had already been convicted, who had already been sentenced and, had they been serving the sentence they deserved, they clearly would have been behind bars and they could not have brutalized and murdered the people that they killed.

But what happened was, because our criminal justice system is not working, in all of these cases, people who should have been in prison were walking the streets because they had not been kept in prison where they belonged.

It seems to me that one issue that must be addressed in this crime bill is this revolving door problem we have in the criminal justice system, where violent criminals go in one way and they are spun out almost instantaneously going in the other direction. There has to be something we can do to stop our bleeding Nation from being brutalized by violent criminals.

I think there are two things we need to do, and I am going to offer amendments some by myself, some in conjunction with others, that are aimed at achieving both.

First of all, we need to build more prisons.

I am delighted to hear the distinguished chairman of the Appropriations Committee talk about funding this bill.

One fundamental difference on the crime bill is a difference as to whether we should promise money or whether we should provide it. My view is we ought to provide money at least to build prisons.

I know most people do not understand the distinction between authorizing and appropriating. When we authorize, we promise to spend money. We say that it is our intention to spend money, but we do not actually provide any money. The bill that is before us authorizes substantial sums of money to be spent in hiring police officers and engaging in numerous activities. But the bill before us does not provide one thin dime to do anything about our problem, because the bill before us simply authorizes the expenditure of money. It does not appropriate funds to spend.

I am hopeful—in fact, listening to the distinguished chairman of the Appropriations Committee, I am very encouraged—that we may be able to find a way to fund this bill so that we are not just promising that we are going to do something about crime in the sweet by-and-by but that we are actually doing it now.

One of the areas where I am determined that we will actually provide money is building regional prisons. I know it is expensive to put people in prison. I have seen estimates that range up to $25,000, $35,000, in some cases as much as $80,000 a year, which seems outrageous to me. But we have these high costs of keeping people in prison, in many cases, because the Federal courts have mandated conditions in prisons that are not met in the military and that are not met by many people who are actually working for a living in America.

But my point is this. A violent predator criminal, in many cases committing 100 crimes a year, is imposing half a million to $1 million of cost directly on society a year, not counting the pain and suffering imposed on our fellow citizens by violent crime. I think that we have to build prisons, we have to have honesty in sentencing so that we know that when somebody is apprehended, when someone is convicted, when someone is sentenced for a violent crime in America, we know they are going to serve the time in jail that they have been sentenced to.

Under an amendment that I will offer with others, we will propose building 10 regional prisons. We will enter into a contract with State governments to share these prisons with the Federal Government for the purpose of incarcerating violent criminals.

In order for States to participate, they will have to adopt a truth-in-sentencing provision so that, when someone in that State is sentenced for a violent crime, they have to serve that sentence. This is a very important provision and it really has two parts.

First, we are going to propose cutting existing spending on Government overhead by $3 billion in order to fund this provision now. We are not going to be promising to build Federal prisons. We are going to be building Federal prisons. I think that is a very important distinctions and I do not think it will be lost on the American people.

Second, in order to participate in this program, we want States to have a truth-in-sentencing provision which they must adopt to guarantee to their people that, in return for being able to share this prison capacity with the Federal Government, the States will be responsible for paying part of the cost of incarceration, we want them to adopt minimum mandatory sentencing. I think that is vitally important. And I am not going to be supportive of any effort that does not do that.

Now, I want to talk a little bit about minimum mandatory sentencing.

I am very concerned that the President came into office, cut prison construction in his budget by $580 million, and then immediately the President, the administration, and the Attorney General started talking about overturning minimum mandatory sentencing. I believe the American people support minimum mandatory sentencing. I believe the American people are committed to the principle that violent criminals and drug felons when they are convicted ought to go to prison and they ought to serve the time in prison prescribed for their crime. I believe that our effort in the last 10 years to eliminate parole in the Federal system and to have minimum mandatory sentencing is strongly supported by the American people.

My message to the President is, there is no possibility that the Congress is going to overturn minimum mandatory sentencing. In fact, we are going to adopt, in my opinion, more minimum mandatory sentencing in this bill. I want 10 years in prison without parole for possessing a firearm during the commission of a violent crime or a drug felony. I want 20 years in prison without parole for discharging that firearm. I want minimum mandatory life in prison for killing somebody with a firearm during the commission of a violent crime or a drug felony. And finally, in aggravated cases, I want the death penalty. And I believe the American people support this provision.

We are going to offer later today, and I believe the Senate will adopt as it has in the past, a three-time loser provision. I believe the American people are tired of violent criminals being convicted over and over and over again and still be walking the streets brutalizing the Nation.

So we want a minimum life imprisonment term for someone who has been convicted of three violent crimes or drug felonies or any combination of those two crimes. The time has come, it seems to me, to put violent predator criminals in prison where they belong, and I believe the American people strongly support that. I hope the administration will realize that they are on the wrong side of this issue and the American people have spoken very clearly on this issue. I think they spoke very clearly in Tuesday's election. I think crime was a major issue in Virginia, and I think the position taken by the candidate who was committed to tough law enforcement, to minimum mandatory sentencing—I believe that George Allen was elected on that issue, and I believe we should be listening to the American voter.

We are also going to have provisions related to crimes involving children. I am going to offer again, as I have in the past, an amendment that says there is 10 years in prison without parole for selling drugs to a minor. Anybody selling drugs to a child, who is convicted, ought to go to prison, in my opinion, for 10 years, no matter who their daddy is or no matter how society has done them wrong. If they sell drugs to a child or if they use a child in a drug conspiracy, we ought to have a special minimum mandatory sentence, and we ought to have a jail cell waiting for each and every one of those people.

So I believe there alear-cut issues here. First, I want to fund prisons; I do not want to talk about it. Second, I want minimum mandatory sentencing

for violent criminals. Minimum mandatory sentencing for people who carry guns and who use them in violent crimes. I want minimum mandatory sentencing for people who use children in drug conspiracies or who sell drugs to children. And I want those sentences put into effect no matter who those people are or no matter how sad their story is.

Finally, I want a minimum mandatory life imprisonment term for predator criminals who are convicted over and over again of violent crimes and major drug felonies. The time has come for the American people, through the Senate, to say enough is enough. We are willing to grab these violent criminals by the throat and not let them go to get a better grip. I believe that represents the view of the American people, and I believe by the time we have finished this bill these provisions will be part of it.

Finally, I want to remind my colleagues that in many cases these amendments have been adopted in the past. In many cases we have voted on these amendments in the Senate, they have been voted on in the House, and then in some dark corner of some little room in this very building, those provisions have been dropped. I think the time has come to respond to the public's outrage about violent crime and to adopt these provisions. I am committed to seeing that happen in this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ROBB. Mr. President, I support the crime bill that has been offered by the chairman of the Judiciary Committee, and at a later point, I will speak in support of the full bill. This morning I rise in support of the pending first-degree amendment offered by the Senator from California.

Hate crimes shock and horrify us, because they represent the failure of rationality.

When an individual is assaulted or property is defaced out of unreasoning anger toward the stereotype of a particular group, thinking men and women recoil in horror at the perpetrator's abandonment of humanity.

Nonetheless, the issue of hate crime is contentious.

Hate, after all is a subjective term. It's not always easy to determine what is a hate crime or how to deter it.

Because its not a crime for people to form opinions according to their personal value systems.

So what is a hate crime?

I would submit, Mr. President, that a hate crime is one in which a person acts upon those feelings of malice, and chooses a victim based on group criteria such as race, skin color, or religion.

Our physical appearances and our pattern of beliefs are after all, only parts of our personae.

Crimes, directed against one element overlook the value of the whole individual.

Recent history has shown us that hate crimes affect not only the individual victim but their entire community.

When a synagogue is defaced, Jews everywhere feel more vulnerable.

When an African-American is brutalized, horror surges through the entire African-American community.

Just look at the Rodney King and Reginald Denny cases.

These two incidents affected the entire Nation.

By making members of minority groups, fearful, angry, vulnerable, and insecure, hate crimes divide cities, and shatter the very substance of our society.

These incidents are not restricted to one area of the country.

According to the FBI's Uniform Crime Reporting Office, 4,558 hate crime incidents were reported in 1991; 43 cities reported an increase in hate violence between 1990 and 1991.

And this problem continues to grow.

Only when society creates significant deterrents to this type of crime can we give conscience to the conscienceless.

Our Nation was founded on inclusiveness and diversity, and America's demographics grow more varied every year.

That diversity cannot succeed unless we are able to adequately penalize those who fail to respect it and operate instead on hatred and bigotry.

This amendment is fashioned to dramatically increase the penalties for those who respond to God-given differences with violence and other hate-motivated crimes.

Prejudice, bias, and racism have no place in American society. I hope that this amendment will open minds so that people will not be judged or punished simply because of the color of their skin, the person they love, the country they came from, or the religion they practice.

By supporting adoption of this amendment, the Senate will also tell those who are victimized by hate crimes that each and every American is an integral part of this society and that we will do our best to protect them as we would any other American.

Mr. President, I am proud to be a cosponsor of this amendment, and I urge my colleagues to join me in supporting it.

I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I may end up being the only Senator to do this on the floor, but I feel the need to do this anyway. I rise to oppose the underlying first-degree amendment. It is difficult to do that for several reasons.

First of all, it is difficult because I know the author, the senior Senator from California, has the best of reasons for doing this and has listed the unbelievable amount of hateful crimes and hateful acts that are being committed across this country. I know her reasons for proposing this are the very best of reasons.

I also regret having to take this position because of the other cosponsors who are the leaders in this body of advocating for civil liberties and for fighting discrimination. I especially regret it because the law that the amendment is based on is from my home State of Wisconsin.

I also regret it because of the long list of groups that the senior Senator from California listed. These are some of the finest groups in this country when it comes to trying to fight bias and discrimination.

And I really will take second place to no one in this body when it comes to the issue of disdaining discrimination, hating discrimination. So it is tough.

So why do I do it? It is because I am elected to exercise my own judgment, even though all these groups that have supported me and have worked with me over the years feel differently. I do it because I think it is wrong in this society to not make the distinction between speech and conduct. I still believe that our speech should be free and that we should punish only conduct.

Let me be clear that I do not oppose the second-degree amendment that has been offered relating to a different issue. I also will not support the effort that may be made to try to remove the provisions of the amendment having to do with sexual orientation and make that not covered. I do not think that makes any sense. If we are going to have a hate crime law, we ought to have a hate crime law. It ought to cover all forms of so-called hate crimes. I would oppose making a content-based distinction in the middle of this law. That really is the sign of the whole problem with this whole bill. It is about making distinctions about the kinds of things that people are thinking.

I would like to inform my colleagues that when I was a Wisconsin State senator, I was one of the few who did not support a similar Wisconsin law. I voted against it in its Wisconsin form in the State Senate Judiciary Committee. I was one of only two State senators to opposed it when we had a vote on the floor of the Wisconsin Senate. There were two reasons that I opposed it. The first was my belief, at least at the time, that this was unconstitutional, and the second was it was bad policy.

I will be frank enough to admit that I still believe it is unconstitutional, but I have a little problem in that argument since the U.S. Supreme Court says otherwise. I recognize it is not my job to question their judgment. I think

maybe some different Justices at different times might have ruled differently. I attended the oral argument and felt that the arguments made against this statute made a lot of sense. But the decision was clear, it was 9 to 0; the Justices said this law is constitutional.

I do not expect a better vote, a much better vote on the floor of the Senate on this amendment itself. But the key to this really was expressed when the Wisconsin Supreme Court considered this issue in the first place. One of my favorite members of the Wisconsin Supreme Court disagreed with me with regard to the constitutionality. Justice Shirley Abrahamson said that it is constitutional but if she had been a member of the Wisconsin Legislature, she would have voted against it on the merits, on the ground that it is still bad policy.

That reason still remains. This amendment does affect a person's right to speak freely in this society.

This provision does limit what I think is an American tradition of not inquiring into the general beliefs of a person when considering what criminal penalties are appropriate.

I still do not understand how the first amendment or free speech can allow a greater penalty because of a person's general views, political or otherwise. This is not to say you cannot make a distinction with criminal penalty based on a person's intent or their animus toward a particular individual, but I do have a problem of making a penalty based on a person's beliefs, as awful as those beliefs may be, and awful they are in many of the cases that the senior Senator from California has identified.

I still do not understand how we can avoid intrusion into an individual's free speech. If we provide, for example, that if someone pours red paint all over a church without saying anything with the red paint, that is one penalty; and if they happen to use that same red paint to put the words, "I hate white churchgoers," I do not understand how that should be a differential penalty. Or, to put it more concretely for me, in a case that happened in my own community a couple of years ago, there had been some anti-Semitic vandalism in the greater Madison area in Wisconsin. It culminated with these same individuals taking credit for having cut the brakes on a schoolbus that was used to take children to a Jewish-sponsored camp in the Madison area. This camp has about half Jewish kids and about half non-Jewish kids. Fortunately, the effort to cut the brakes was discovered in time and no one was hurt. It was very personal for me because one of my daughters was traveling on this bus and, thank God, nothing happened to her or any of the other kids.

But if a tragedy had occurred, what difference would it have made if it had happened that it was just all Jewish kids on the bus or all Christian kids on the bus, or some mixture?

In my view, what is a crime is the intentional threatening of a child or harming of a child, of any child, not whether or not somebody was thinking about the background of the child when they committed the act.

So it is with this whole crime bill itself. This crime bill should be about stopping criminal acts, not distasteful or even hateful thoughts. We know there is a great deal of crime in this country and that much of the crime that is occurring today has roots in hatred and racism. Racism in this society has led to a desperation in many communities and it has led people of all colors and all backgrounds to a hopeless resort to crime. And some of these crimes have been racially motivated on both sides of the racial line.

But, Mr. President, it is always a moment of crisis, such as a time of great crime or a time of great racial tension, when civil liberties are most likely to be limited. We know from our own 20th century history, one of the worst invasions of civil liberties in the history of this society was the incarceration of Japanese-Americans. That happened at a time of national crisis, and I would suggest that the situation with crime in this country is similar. It is at these moments when we have to most worry about the judgments we make in a legislative body. It is not when, as Rodney King suggested, we might all get along that we have to worry. It is when we are not getting along, and we are not getting along today.

It is at this moment when we have to at least pause before we start sentencing people not on the basis of the viciousness of their act or the actual harm, but based on what they might have been thinking when they did the act.

Let me conclude, Mr. President, by just citing from an editorial from the Washington Post which the senior Senator from California distributed. That editorial in the Washington Post took issue with the policy that resulted from the Supreme Court decision. It disagreed with the Supreme Court decision about the Wisconsin case, and it said the following:

> Todd Mitchell, the defendant in the Wisconsin case, did a terrible thing when he urged a group of friends to "move on to some white people" and watched while they severely beat a 14-year-old white boy. But surely, it would have been just as terrible if the gang had beat a 14-year-old black child or beat the white child it did just for the sake of indulging cruelty. The sentence for aggravated assault in any of these cases would be 2 years, but the Wisconsin law provides for an additional 5 in the case under consideration. Does a victim suffer less harm if he is bludgeoned by a coreligionist than he would if the culprit were someone from another church? Is an assault on a deaf person by a hearing person more likely to provoke retaliation than the beating of a member of one Mafia family by a member of another?

The editorial continues:

> Assessing bias is far more complicated and could involve the examination of a speech the defendant made in high school or the views championed in the magazines he subscribes to. And it creates its own bizarre moral priorities. Is it less reprehensible to mug a blind woman because she is an easy target than because of a prejudice against the disabled?

The Post goes on to conclude:

> When an extra five years in prison rides in the distinction, that becomes a serious question, not an absurd one, as it seems on its face. Victims have equal rights to vindication. Heavier sentences based on objective assessments of an offender's alleged biases are bad policy.

Mr. President, I realize there may not be much support for this position, but I do believe that this is one moment where we should pause and question whether we really want to get into the area of determining what people generally believe about other people when we decide what the appropriate criminal sentence may be.

I yield the floor.

The PRESIDING OFFICER. Is there further debate on the Grassley amendment?

The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I ask unanimous consent that Senator CONRAD be added as a cosponsor to the Roth-Grassley-Hatch antichild pornography sense-of-the-Senate amendment.

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

Is there further debate on the Grassley amendment?

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I would like to propound a unanimous consent request, and I ask my friend to listen to it.

I ask unanimous consent the vote on the Roth-Grassley amendment occur at 11:50 a.m. and that immediately upon the disposition of that amendment, amendment 1098, the Senate vote on or in relation to the Feinstein amendment, amendment No. 1097, as amended, if amended; that no other amendments be in order prior to the disposition of that amendment and all the above occur without intervening action or debate; and further, that upon the disposition of those two amendments, we then move to a prison amendment that my friend from Utah is prepared to offer.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. I would like to have some time to clear that unanimous consent request because I have at least one Senator, the Senator from North Carolina, who would like to speak to the FEINSTEIN amendment, and I have been notified that he would like some time. I will endeavor to clear that.

If we could, why not just vote on Grassley, and then I will endeavor to

clear that so we can vote next on Senator FEINSTEIN's amendment and then go on to the rest of the unanimous consent.

Mr. BIDEN. Mr. President, I say to my friend that I do not have objection to that if, in fact, there can be no—let me be very blunt about it. I am not very good at being coy about this. I just want to make sure there is not an additional second-degree amendment that comes in to replace the Roth-Grassley amendment amending the Feinstein amendment. And so that is what I am attempting to do, very bluntly. If we can agree on that, then I have no problem with voting now on Roth-Grassley, allowing the Senator from North Carolina all the time he wishes on the amendment of the Senator from California.

Mr. HATCH. Mr. President, I do not know what the distinguished Senator from North Carolina has in mind—debate or whether he has another amendment—but I will certainly work to see that he gets over here and does whatever he wants to do.

Mr. BIDEN. Mr. President, maybe we could try it this way. I ask unanimous consent that we temporarily lay aside both of these amendments and move to the amendment of the Senator from Utah—

Mr. HATCH. That is acceptable.

Mr. BIDEN. On prisons so we can just keep moving. And then we can go back to the disposition of the amendments after disposition of the amendment of the Senator from Utah relative to prisons.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 1099

(Purpose: To add provisions relating to prisons)

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself, Mr. MACK, and Mr. DOLE, proposes an amendment numbered 1099.

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 294, strike line 1 and all that follows through page 303, line 21 and insert the following:

SUBTITLE B—REGIONAL PRISONS AND STATE PRISONS

SEC. 1331. REGIONAL PRISONS FOR VIOLENT CRIMINALS AND VIOLENT CRIMINAL ALIENS.

(a) DEFINITIONS.—In this section—

"child abuse offense" means an offense under Federal or State law that constitutes sexual exploitation of children or selling or buying of children within the meaning of chapter 110 of title 18, United States Code.

"firearm offense" means an offense under Federal or State law committed while the offender is in possession of a firearm or while an accomplice of the offender, to the knowledge of the offender, is in possession of a firearm.

"crime of violence" means a felony offense under Federal or State law that is a crime of violence within the meaning of section 16 of title 18, United States Code.

"qualifying prisoner" means—

(A) an alien who is in this country illegally or unlawfully and who has been convicted of a crime of violence (as defined in section 924(c)(3) of title 18, United States Code) or a serious drug offense (as defined in section 924(e)(2)(A) of title 18, United States Code); and

(B) a violent criminal.

"sex offense" means an offense under Federal or State law that constitutes aggravated sexual abuse, sexual abuse, sexual abuse of a minor or ward, or abusive sexual contact within the meaning of chapter 109A of title 18, United States Code.

"violent criminal"—

(A) means a person convicted under Federal law of an offense described in, under the circumstances described in, the provisions of section 924 (c) or (e) of title 18 or section 994(h) of title 28, United States Code, or under State law for the same or a similar offense; and

(B) insofar as any of the circumstances described in an offense described in subparagraph (A) is the prior conviction of an offense, includes a person who had been adjudicated as a juvenile delinquent by reason of the commission of an act that, if committed by an adult, would constitute such an offense.

(b) CONSTRUCTION OF PRISONS.—The Attorney General shall after consultation with State correctional administrators, construct a minimum of 10 regional prisons, situated throughout the United States, each containing space for at least 2,500 inmates. At least 75 percent of the overall capacity of such prisons in the aggregate shall be dedicated to qualifying prisoners from qualifying States.

(c) ACCEPTANCE OF PRISONERS.—Any qualifying State may apply to the Attorney General to accept any qualifying prisoner. If, in the Attorney General's judgment there are likely to be more qualifying prisoners than there is space available, then to the extent that the Attorney General deems it practicable, the Attorney General should seek to allocate space among qualifying States in a proportion similar to the number of qualifying prisoners held by that State in relation to the total number of qualifying prisoners from qualifying States.

(d) QUALIFYING STATE.—

(1) IN GENERAL.—The Attorney General shall not certify a State as a qualifying State under this section unless the State is providing—

(A) truth in sentencing with respect to any crime of violence that is consistent with that provided in the Federal system in chapter 229 of title 18, United States Code, which provides that defendants will serve at least 85 percent of the sentence ordered and which provides for a binding sentencing guideline system in which sentencing judges' discretion is limited to ensure greater uniformity in sentencing;

(B) pretrial detention similar to that provided in the Federal system under section 3142 of title 18, United States Code;

(C) sentences for firearm offenders, violent criminals, sex offenders, and child abuse offenders that, after application of relevant sentencing guidelines, result in the imposition of sentences that are at least as long as those imposed under Federal law (after application of relevant sentencing guidelines); and

(D) suitable recognition for the rights of victims, including consideration of the victim's perspective at all appropriate stages of criminal proceedings.

(2) DISQUALIFICATION.—The Attorney General shall withdraw a State's status as a qualifying State if the Attorney General finds that the State no longer appropriately provides for the matters described in paragraph (1) or has ceased making substantial progress toward attaining them, in which event the State shall no longer be entitled to the benefits of this section, except to the extent the Attorney General otherwise directs.

(3) WAIVER.—The Attorney General may waive, for no more than one year, any of the requirements of this subsection with respect to a particular State if the Attorney General certifies that, in the Attorney General's judgment, there are compelling law enforcement reasons for doing so. Any State granted any such waiver shall be treated as a qualifying State for all purposes of this subtitle, unless the Attorney General otherwise directs.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $600,000,000 for fiscal year 1994;

(2) $600,000,000 for fiscal year 1995;

(3) $600,000,000 for fiscal year 1996;

(4) $600,000,000 for fiscal year 1997; and

(5) $600,000,000 for fiscal year 1998.

SEC. 1322. FEDERAL GRANTS FOR STATE PRISON CONSTRUCTION AND OPERATION.

(a) DEFINITION.—In this section, "new prison" means—

(1) a prison or bootcamp or city or county detention facility, including an addition to an existing prison or city or county detention facility, certified by the State, and approved by the Attorney General, as providing additional prison capacity beyond that which the State previously had available or had already planned to construct; and

(2) a prison that is principally dedicated, as determined by the Attorney General, to housing repeat violent offenders and sex offenders.

(b) GRANTS.—The Attorney General may enter into agreements with any qualifying State to provide construction grants or operating grants for new prisons.

(c) CONSTRUCTION GRANTS.—The Attorney General may make construction grants for up to 50 percent of the construction costs, as approved by the Director of the Federal Bureau of Prisons, for new prisons.

(d) OPERATING GRANTS.—The Attorney General may make operating grants for up to 50 percent of the operating costs, as approved by the Director of the Federal Bureau of Prisons, for new prisons.

(e) CANCELING GRANTS.—The Attorney General may, in the Attorney General's sole discretion, cancel any construction grant or operating grant if the Attorney General finds that a State is using those funds to substitute for existing funds or to provide prison space that substitutes for existing prison space.

(f) DISTRIBUTION OF GRANTS—The Attorney General shall ensure that each State receives no less than 50 percent of the funds made available under this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $600,000,000 for each of

fiscal years 1994, 1995, 1996, 1997, and 1998, of which 50 percent shall be used for construction grants and 50 percent shall be used for operating grants, except that the Attorney General may alter those allocations if the Attorney General certifies that there are compelling law enforcement reasons for doing so.

SEC. 1324. SENTENCES TO ACCOUNT FOR COSTS TO THE GOVERNMENT OF IMPRISONMENT, RELEASE, AND PROBATION.

(A) IMPOSITION OF SENTENCE.—Section 3572(a) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) the expected costs to the government of any imprisonment, supervised release, or probation component of the sentence;".

(b) DUTIES OF THE SENTENCING COMMISSION.—Section 994 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(y) The Commission, in promulgating guidelines pursuant to subsection (a)(1), may include, as a component of a fine, the expected costs to the Government of any imprisonment, supervised release, or probation sentence that is ordered.".

SEC. 1325. OVERHEAD EXPENSE REDUCTION. FUNDING.

(a) CBO SCORING.—The Congressional Budget Office estimates that the reduction in administrative costs required by this section will produce savings of $6,000,000,000 over 5 years ($1,200,000,0000 in each of fiscal years 1994, 1995, 1996, 1997, and 1998).

(b) REDUCTION.—The overhead expenses identified and reduced by the President in Executive Order 12837 are hereby reduced by an additional 5 percent. The reduction required by this section shall be taken from the total of such expenses before the reduction by the President.

(c) ALLOCATION.—The amount of available budget authority resulting from enactment of this section shall be reallocated for programs authorized pursuant to this subtitle.

Mr. HATCH. Mr. President, one of the critical differences between the Dole-Hatch Neighborhood Security Act and the Democrat alternative is that our bill places far greater importance on incarceration in punishing and preventing violent crime. In our view, there is no better way to reduce violent crime than to identify, target, and incapacitate recidivists and violent criminals. Toward meeting the objective of greater incapacitation, we propose spending $6 billion over the next 5 years to build regional prisons to house State and Federal violent offenders and to provide the States with prison construction and operating grants.

The States need the help. For example, my home State of Utah spends over 30 percent of its criminal justice expenditures on corrections. This is not surprising considering Utah's rate of incarceration has nearly doubled since 1982—80 per 100,000 population in 1982 to 149 per 100,000 in 1992. So in 10 years we have doubled the rate of incarceration. And I suspect that is true of most other States.

Utah's State Department of Corrections has more inmates than its operational capacity permits and is forced to house inmates in other facilities on a contract basis. Our Governor, Gov. Michael Leavitt, recently proposed an aggressive prison expansion program to combat Utah's growing gang problem. Utah could sure use the assistance provided in the Dole-Hatch bill and no doubt other States could as well.

In stark contrast, the original Democrat bill provided a paltry $200 million for both State boot camp grants—an alternative sanction—and for regional prisons.

The new Biden bill now authorizes $2 billion, which is clearly a movement toward our position.

But let me just say this. I wish to compliment the distinguished Senator from Delaware because I know he feels very similar to the way I feel about increasing prison capacity and providing the places to put and park these violent criminals. So I wish to pay him particular tribute for being willing to lead on his side and to try to get the prison moneys up where they ought to be.

I commend my colleagues and especially the distinguished Senator from Delaware, but $2 billion is not enough and his bill does not fund prison construction, which we think is critical. It is only a promise to build these prisons. Our amendment actually contains specific cuts. And it mandates that these cuts be spent on prisons. If Congress passes a crime bill which fights crime by increasing the number of police officers on the streets, thereby increasing arrests, prosecutions, and convictions, but refuses to build more adequate prison space, we are left with only three possible outcomes. These are, No. 1, State judges will be forced to grant probation to those who deserve and should be given hard time.

No. 2, there will be an increase in prison overcrowding. We know that is going to be the case.

No. 3, there will be earlier release of more prisoners, which will include earlier release of more violent prisoners to the detriment of society as a whole in each of our States.

These outcomes are wholly inappropriate. We will make no dent in crime if we have so little prison space and thus continue to allow criminals to return to the streets well before they have completed their sentence. As Georgia's attorney general, Michael Bowers—I might add that he is a Democrat—recently said, "All of the police officers in the world are not going to make a difference on the crime situation until you provide a place to put the criminals. Unless you do that, it is a waste of time."

That is one of our top attorney generals in this country. The choice then is simple. More prisons, or more crime. To me, there is not even a question on this issue. Self-proclaimed criminal "justice" experts—I might put "experts" in quotes too—who oppose increased incarceration will argue that our Nation imprisons too many people.

While I agree that it is indeed tragic that we must incapacitate so many people, on January 1, 1993, there were 824,901 inmates in State and Federal prisons. America's incarceration rate is not the problem. Rather, our prison rate is a symptom of the unparalleled amount of violent crime plaguing our country and each of our States.

Last year violent crimes reported to law enforcement exceeded 1.9 million offenses. Those are violent crimes, not just criminal activity; violent criminal activity.

This figure is 23 percent higher than just 5 years ago in 1988. A violent crime occurs every 22 seconds in this society today. It is pathetic.

Not surprisingly, imprisonment and prison construction policies have had an effect on our Nation's crime rates. For example, in the 1960's, violent crimes reported to police more than doubled while our Nation's prison population declined by almost 8 percent. More recently, a 1992 Justice Department report cited the policies of Texas. The Texas legislature had adopted a less punitive approach to crime that reduced the time the prisoners served in an effort to open up space for other felons. Between 1980 and 1989, after the legislature adopted that less punitive approach, the average prison term served in Texas fell from about 55 percent of the sentence imposed to approximately 15 percent of the sentence, and by 1989 the parole population grew to more than five times its 1980 level.

The expected punishment for serious crimes: murder, rape, robbery, aggravated assault, burglary and theft, fell 43 percent in Texas. That is, the expected punishment fell 43 percent. Not surprisingly, the rate of serious crimes reported in Texas rose by about 29 percent. That is taken right out of the U.S. Department of Justice Report for Incarceration, a 1992 publication.

The same 1992 Justice Department report noted that between 1981 and 1984 Michigan was experimenting with an early release program which actually saw its prison population decrease. Between 1981 and 1986 the violent crime rate in Michigan rose by 25 percent. While they are reducing the prison population, their crime rate rose 25 percent. In 1986, however, when Michigan turned around and embarked on a major prison-building effort, the State's violent crime rate began to fall, and by 1989, just 3 years later, had dropped 12 percent.

I think it is pretty hard to argue with these statistics. Building more prisons, keeping people that are violent criminals in jail longer, reduces crime.

I have to say, putting policemen on the street reduces crime too, and we should do both in this bill.

Like the citizens of Michigan, most Americans have recognized that the

nonpunishment policies of the 1960's and 1970's failed, and most Americans have urged prosecutors in courts to increase the rate of incarceration. In fact, imprisonment rates rose from 134 per 100,000 in 1980 to 282 per 100,000 in 1990. Unfortunately, prison space has not kept pace with the increased rate of incarceration. This is not to say that new prisons are not being built. There are currently 74 new facilities under construction in 20 jurisdictions, 13 of which are Federal. Still prison construction is at its lowest point since 1987.

We got that out of the corrections year book in 1993.

It is not news to anyone that many State prison systems are seriously overcrowded. Nor is it news that other systems let criminals go free either by placing them on probation or releasing them early to make room for the next batch of criminals.

This year the average State prison system is operating with 15.4 percent more inmates than its rated capacity. This figure actually understates the problem, since some of the States currently at or below capacity have reached that position only after releasing prisoners early. So it is really not the true story. It has to be a lot higher than that 15 percent more inmates than each prison's rated capacity.

Rather than build new prisons, these States have chosen or have been ordered to create a revolving door by releasing enough prisoners to meet the cap on population in prison. Currently, 25 States and the District of Columbia have court-ordered prison caps—25. Half of the States in this country plus the District of Columbia have been told these are the caps; you have to put these violent criminals back out on the street.

You wonder why the mothers of this country are concerned about their kids. You wonder about the increase in gangs. You wonder about drive-by shootings. You wonder about the increase in murder in this society today. You wonder about the increase in drugs. We put them in, we roll them out almost as fast. The sentences do not mean very much. The criminals wander in and out. They come out as heroes in some of these communities, especially this community here, and they go right back into the streets to commit and create more violent crime.

We simply have to have this amendment.

Although Americans have said "enough" to the permissiveness of previous decades, our total prison space is obviously inadequate. Yes, incarceration rates have increased, but actual time served is the true test by which our corrections systems has to be judged.

The Department of Justice study found that persons convicted of violent crimes are sentenced on average to 5 years in prison. These are violent criminals, violent crimes, and they are sentenced on average to 5 years in prison. However, they actually serve only 2 years and 2 months on average. Violent criminals are serving—only put away for 5 years—they are only serving 2 years and 2 months across this country.

No wonder we are making no headway.

Fifty-one percent of the Nation's violent offenders are released from prison before serving 2 years, and 76 percent are released before they serve 4 years.

A typical murderer in this country is sentenced to only 15 years but serves—this is what really is mind boggling—sentenced 15 years; which is amazing to me that a murderer would get that short of a time, but they serve on average only 5½ years—murderers, 5½ years.

Rapists are on average sentenced to 8 years. These are rapists. No wonder women in this society do not feel safe. They are sentenced to 8, but guess how many they serve on average? Three years.

Again, that is from the Department of Justice and their statistics.

These statistics illustrate the need not only for more prison space, but also the greater need for truth in sentencing as well. As a result of early release, crimes are committed that would not have occurred had these prisoners remained in prison for the duration of their sentences. And had they been given tough sentences and mandatory minimum sentences for a longer period of time and had to serve it, there would be a lot more forethought before they commit crimes to begin with, especially violent crimes.

A 1989 survey of almost 4,000 prisoners who were released early in Florida because of prisoner crowding found that nearly one in four were rearrested for a new crime at a time when they would have otherwise be in prison—one in four.

These 1950 people who were supposed to be in prison for earlier crimes were responsible for 2,180 new crimes including murders, armed robberies, rapes, aggravated assaults, burglaries, and drug offenses.

Our Nation ought to decide what kinds of criminal activity warrant incarceration to make sure we have the prison space to house those convicted of it rather than treat this issue as a matter of letting one criminal go in in order to imprison another one.

Criminal law enforcement should not become a zero sum game. Criminal law enforcement is important. Despite the clear length between incapacitation of criminals and crimes rates, some will argue that we do not need to build more prisons and would even go as far as to suggest that we release more prisoners early.

(Mr. DORGAN assumed the chair.)

Mr. HATCH. The Democrat crime bill actually permits the Bureau of Prisons to decrease the sentence of Federal inmates—violent offenders included—who complete drug treatment programs. Their bill also proposes that States be given grant money which can be used to implement home confinement and other alternative sanctions for violent offenders.

Recently, the administration has fought to rescind over $130 million in spending that had already been provided for Federal prison and jail construction. That is what this administration has done. I do not think the President really could have known about that with his call for a fight against violent crime. But his own administration, his own Director of OMB, the Office of Management and Budget, fought to rescind over $130 million in spending that had already been provided for Federal prison and jail construction. That may be a drop in the bucket, but nevertheless it is a step in the wrong direction.

Their crime bill demonstrates an inadequate financial commitment to prison construction, and their regional prisons are really treatment centers. It is one thing to want to treat people and one thing to rehabilitate them—and I want to rehabilitate them, too—but we are talking about violent criminals that are unlikely to be rehabilitated.

They need to be parked for a long time in jail where they cannot get out and do more harm to society. The bill would require that treatment on demand be provided to all inmates. That is the Democrat bill. It would require that treatment on demand be provided to all inmates. Stated simply, the bill's commitment to additional prison space can be summed up as limited, at best. Bear in mind that, in 1991, the Department of Justice found that 94 percent of all State inmates were either violent or repeat offenders, and over one-third of all inmates have been incarcerated before. Moreover, two-thirds of the violent inmates in State prisons had killed, raped, or injured their victims. Over half of the remaining 6 percent of State inmates had been convicted of drug trafficking or burglary. This is out of the Bureau of Justice Statistics, Survey of State Prison Inmates in 1991.

Another popular argument against further prison construction is that prisons turn nonviolent offenders into career offenders. Yet, contrary to this argument, the rate of criminal recidivism appears to decrease with longer prison sentences.

A 1983 Bureau of Justice statistics study shows that those who had served 5 years before release have lower recidivism rates than those who served less than 5 years. According to the study, recidivism rates are linked more closely with an offender's age when released and the number of prior arrests

than to the amount of time the offender is incarcerated.

A final note: The Democrat bill seems to stress expanded drug treatment as opposed to additional prison construction. It provides $1.2 billion for a drug court grant program to States and mandates drug treatment on demand for Federal prisoners. I do not quarrel with the need to treat those who are in fact treatable. Yet, I believe dollars should be spent on treatment only after we have ensured that the peaceful, law-abiding people of this Nation that we have adequate prison space to back up the sentences we impose.

Right now, we do not have adequate prison space, and we are not backing them up; we are letting them out. A large percentage go out and commit violent crimes again. We wonder why we are losing. Let us build these prisons and make sure they are going to stay. Let us get tough about it.

Furthermore, I do not believe that all criminals with drug problems are treatable. I have worked rather closely with addicts, as I know my distinguished colleague has, and I know that he agrees with me on some of these things. I have worked very closely with addicts and with drug-ridden offenders. I have to tell you that it is very, very difficult to rehabilitate them—first timers, young people, yes, sometimes we can; but when you get some of these people that are hard-core addicts, they are almost untreatable. I would like to do that, but I would like to first make sure that they are off the streets. I would like to first make sure that these people are not out there committing crimes again just because we do not have any place to put them. I have to say that the Democrat bill here does not adequately treat this.

I know the pressures on my colleague from Delaware, because I know he would agree with more moneys for prisons if he had total control over this. But we simply have to do this. I do believe there is a role for treatment in combating drug-related crime, but we have to bear in mind that such treatment's proven effectiveness is limited. Nearly one in four State prison inmates have participated in a drug treatment program before entering prison. So there is a limit to what we can do, and you can throw money down that hole pretty fast. We have to approach it in a very serious and intelligent way, but you approach it by making it clear that these terms are going to be served, prisoners are going to stay in prison, and they are not going to get out easily like they do today. Maybe they will think twice about real rehabilitation under those circumstances.

Mr. President, the problem facing our criminal justice system is not one of too much incarceration. Rather, the problem is too much crime, and the simple fact is that the best way to stop crime is to put criminals in prison.

In the past, Congress has given inadequate attention to our States' bulging prisons. The Hatch-Mack amendment—and I compliment my colleague from Florida—attempts to alleviate some of the problems by providing $6 billion for prisons. Half of this money, $3 billion, will be dedicated to the construction of 10 regional prisons to house up to 50,000 State and Federal violent offenders. The other $3 billion will be used for grants to States for operation and maintenance of jails, boot camps, and prisons. My colleague from Delaware, the chairman of the committee, would probably agree with that.

Importantly, our amendment also encourages the States to adopt greater truth in sentencing. It conditions participation in the $3 billion regional prison program on a State's adoption of sentencing guidelines which ensures that offenders will serve 85 percent of their sentences, reform bail laws, and provide adequate recognition of victims' rights.

The law-abiding citizens of this Nation demand that a 10-year prison sentence mean 10 years—not 2 years or less. It is time we provide the States with a greater incentive to adopt truth in sentencing. Many States have sentencing reform underway or have already done so.

As then Attorney General William Barr wrote in 1992 when he advocated the building of new prisons, "Revolving-door justice resulting from inadequate prison and jail space breeds disrespect for the law and places our citizens at risk, unnecessarily, of becoming victims of violent crime."

The Dole-Hatch bill appropriately ensures that additional prison space will be constructed to build the prison spaces we so urgently need.

Again, I use my home State of Utah to make the point one more time.

This is the Utah prison capacity here, the operational capacity, in the green. This is what Utah, from 1990 through 1996, can do. This is its operational capacity.

But this yellow line, which becomes a red line ultimately because of the fright to everybody in my State—and I suspect other States are similar—shows the incarcerated population. We have the capacity to take care of them down here, but you can see that the incarcerated population is going to be way beyond our capacity to take care of. That means that we have to continue to put more and more people out on the streets who are violent criminals when, in fact, they ought to be kept in jail where their violence will be muted.

I have spoken about Utah, but I suspect there are many other States that are even worse off than Utah. Throughout this country, our prisons are operating at approximately 123 percent of capacity now. We have to do this. We simply have to do this, and I hope that our colleagues will support this.

I hope my colleague from Delaware will support this because this will improve the bill we have before us.

Mr. President, I ask unanimous consent that my distinguished colleague and friend from Texas, the Senator from Texas, Senator GRAMM, be listed as an original cosponsor of this amendment.

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

Mr. HATCH. I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, let me respond to a few points that the Senator from Utah has made. Let me start off by saying that on page 276 of the bill I have introduced in the section relating to drug courts, line 6, page 276, it reads "violent first-time offender or violent offender with a minor criminal record who is 28 years of age or younger." That is an error on the part of the drafting of this amendment, and that is a staff error that I thought had been corrected.

It should read, "Young nonviolent offender means a violent first-time offender or a nonviolent offender with a minor criminal record who is 28 years of age or younger."

The points being made by my friend from Utah about violent offenders being in that drug court circumstance I think are accurate.

So I ask unanimous consent that I be able to change the language on page 276 of the bill before us to read insert the word "non" on line 6 before "violent."

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. Mr. President, I have no objection to that. I think that is a good correction. I am very impressed by my colleague's willingness to do it. Still we would want to have another amendment to define "violent." I would still like to be able to file a later amendment that will clarify what "violent offender" is because I think it needs to be clarified even further.

That amendment change I think will be a good amendment change.

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

The Chair will ask the Senator from Delaware to send the correction to the desk.

Mr. BIDEN. Mr. President, now let me speak to the larger point raised by my friend from Utah. He has characterized the language in my bill relative to prisons in the first instance and why his amendment, the $6 billion amendment, is more appropriate.

Let me start off by saying that there are certain basic things unrelated to prisons we should understand here. No. 1 is a point raised by the distinguished Senator from West Virginia and the distinguished Senator from Texas

today and by me yesterday, and that is whatever we do we should fund. That is a generic statement applying to the whole bill.

The second point I would like to make here is let us identify where the problem lies. People listening to this debate will assume that the problem lies at a Federal level relative to prisons. I would point out that, if the Senator would allow me to use his own chart for just a moment, the chart that the Senator from Utah has put up here showing what is, in fact, an accurate projection not only in his State but in every State of the Union, of the increases in prison population, I want to point out what the chart at the top says. It says Utah Prison Capacity, not Federal prison capacity.

So one of the things that we deal with all the time, those of us who are here and with our constituents and the American public, sometimes, and it is the easiest target to blame for not doing their job is the U.S. Congress, and we deserve a lot of blame. But we are talking about here a State problem, not a Federal prison problem, because at the Federal prison level the Clinton budget oversees a 32-percent expansion of Federal prison systems over the next 5 years through the year 1998.

Today the Federal prison system houses about 84,000 offenders. The Federal prison system has made the following projections: By 1995 that will be 92,700; by 1996, 99,900; by 1997, 106,000; and by the end of the year 1998, 111,600. The fact of the matter is we, the Members of this body, provided for the expansion of the Federal system.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. BIDEN. I yield.

Mr. HATCH. Is it not true that expansion was during the Bush administration and that since this administration came in OMB has called for a $130 million reduction?

Mr. BIDEN. OMB can call for what they want to call for. The fact of the matter is, and I will give everybody credit for it, the point is we do not have a problem in the Federal system.

So I want to make it clear here. We are here because, and I have great sympathy for them, the Governors and the State legislatures of the United States of America, whether it be in the State of Utah or the State of New York or Idaho or anywhere else, or any of the States represented here in this Chamber, because they have concluded, notwithstanding their herculean efforts, that they are not going to go and ask taxpayers in their States to spend more money on a State problem—I respect that—I am prepared to help.

When I used to practice law 100 years ago, I learned something from a very skilled trial lawyer in my State, a fellow named Sidney Bailey. Every time he talked to the jury he would say, "Now, ladies and gentlemen of the jury, they are going to tell you my client is," and he would go through a list of things. He would say: "I agree. My client is an ugly fellow. My client is not someone you would want your daughter to date. My client is not someone you would invite home to dinner. The issue is not whether my client is an ugly person who you will not want your daughter to bring home for dinner. The question is did my client commit a crime."

Then he would say, "So keep your eye on the ball."

The ball here is how much will the State system be helped by the Federal Government. That is what the debate is about. I want everybody listening to understand. It is not about the Federal system. It is about a State problem that under our separation of powers and the notion of federalism have historically left to States. Ninety-five, 96 percent of all the crime is committed in State jurisdictions, not Federal jurisdictions. So we have a State problem.

If you take a look at the chart—we are all big on charts these days ever since Ross Perot came on the scene—but if you take a look at the chart here, there are roughly 840,000 State prisoners in State prisons today, another 450,000 in jails—we do not call them prisons—State jails, city jails, county jails, people serving 1 year or less. So there is about 1,240,000 people incarcerated in the States, but 840,000 of them are in State prisons.

Of those States that have this many prisoners there, there are a total of 32 States that have court orders, either Federal or State court orders, relating to prison overcrowding.

The problem my friends from Texas and Utah, the Presiding Officer in the chair, and others, have pointed out to the Senator from Delaware is they are sick and tired, as I am, of seeing violent and repeat violent offenders pushed out the back door of a State prison because there is no room for that person in that State prison or because in order to make room they require them to only serve 40 percent of their sentence or less, and then they go out and commit additional crimes.

So, again, this is not being critical of anyone. I just want to make sure we keep our eye on the ball here. And the ball is States have a problem.

All those horror stories that we are hearing about, all of them—probably you can find some exception—but the vast majority of them that we hear, that I recount and others recount on the floor of this Senate, are State prisoners let out of State jails because State legislatures and State Governors, for very good reasons, conclude not to ask the taxpayers of those States to provide enough jail cells for all those prisoners to stay in for the entirety of the sentence. That is the bottom line.

Now, there is a third thing we should keep our eye on here. The Governors, Democrat and Republican, whom I wish very much to help and I think we have a need and obligation to help—I have been the one who has introduced, or at least I have been the major or minor cosponsor of, every crime bill since the early 1970's. I strongly believe the Federal Government has to enter into partnerships with the States because they are American citizens, rather than from Delaware or Texas or California or Utah, who are being brutalized by these thugs—I refer to them as predators—these predators we let out on the street.

But every Governor comes down here, and as recently as yesterday there was testimony in a committee of the U.S. Senate where Governors and legislators were testifying about unfunded mandates. The one thing they said was, "We don't want anymore unfunded mandates."

Let me make clear what they describe as unfunded mandates. They do not merely mean an order with no money—and I can see one staffer on the other side shaking her head "no." We will get the language from yesterday's testimony.

They also mean carrots and sticks that are unfunded, in fact. The Federal Government will give me $1 and require me to do something or ask me to do something that is going to cost me $3. They call those unfunded mandates, too.

So every Governor comes down—and I love them, God bless them—they come down and they say, "Now, Federal Government, do three things: One, balance the budget. Two, send us more money. Three, no unfunded mandates." It is like a dance.

Now, I understand it. I understand it.

Let us understand what we are doing here now, what we are doing with this amendment. In order for this amendment—and I will submit the details in the RECORD, or debate it with anyone who wishes to speak to it—in order for the States to get the $3 billion—access to $3 billion here in this amendment, the amendment of my friend from Utah and my friend from Kansas, the Republican leader, they can get a shot at a $3 billion pot if they spend $11.8 billion.

Let me translate that: Unfunded mandate, as defined by the National Governors Conference and State Legislative Conference.

So let us make it clear the favor we are doing these folks, OK? We are telling them that we will help you with your prison population in this amendment—not what is in the bill, but in this amendment—if you will change your sentencing requirements—which I think they should change, by the way—if you will change your sentencing requirements so, instead of your folks who are violent offenders serving roughly 40 percent of their time in jail,

they will have to serve 85 percent of their time in jail, which essentially doubles the number of jail cells needed to house the same number of prisoners.

That means that the States say, OK, I am the administrative assistant for the Governor of Delaware or North Dakota or New Mexico. I walk in and I say, "Governor DOMENICI, as your administrative assistant, I have such a deal for you. The Federal Government will give you $200 million to help house New Mexico's prisoners."

And Governor DOMENICI would probably say, "Hey, that is great. That is $200 million we did not have before."

And knowing Governor DOMENICI—as he is Senator DOMENICI, with the incisive mind he has in asking all right questions—he is going to turn to me and say, "But what do we have to do?"

And I say, "No problem, Governor. You just have to raise $400 million in taxes to get $200 million. No problem. Because then you will end up with $600 million, and we will house an awful lot of additional prisoners."

And then Governor DOMENICI or Governor BIDEN, or whoever is Governor, is going to say: "Let me see if I have this straight now. The Federal Government is going to give me more money for prisons—God bless them, such wonderful people that they are—but I have to go out and tell my legislators they have to find me twice that amount of money in order for me to get the money the Federal Government wants me to have."

It is a little like when you are talking to your son or daughter and they tell you they want to buy a car. They say, "Hey, Dad, I want to buy a car. I'm 18 years old. I can get a car. Can you help?" And I say to my son, "Now, what kind of car do you want?" And he says, "Awe, Dad, I saw this beautiful convertible." I say, "I will tell you what. Before you tell me the car you want, I will provide 50 percent of whatever you want."

All of a sudden, my son's appetite for cars goes from an $18,000 used convertible that he was looking at down to a $3,000 stable, little car, because he knows he has to come up with $9,000 as opposed to $1,500. Unfunded mandate. These are unfunded mandates.

So let us get it straight here. I want every Governor who is listening—and I am sure every Governor has this turned on in their office right now, watching; yeah, we would be lucky if there was one.

But at any rate, I want every Governor to know that my friends from Kansas and Utah are going to help them.

It is like that old joke. "I'm from the Federal Government and I'm here to help." And it is a joke. That old joke is, "I'm from the Federal Government." They say, "I'm here from the Federal Government. I'm here to help you, Governor I'm going to give you up to $6 billion in prison money. The only condition is you have to spend $11.8 billion to get the $6 billion," collectively, Governors all over the Nation.

Now, maybe we should do that. Years ago, we passed truth-in-lending. I think we should pass truth-in-advertising here, truth-in-legislation. That is a decision we can make here. And it would not be a bad decision.

But my worry is the effect would be—and I say to the Presiding Officer, who knows more about this than most of us—the effect of that would be that I am afraid the States will not participate; that the States will not build more prisons; that the States will not house violent offenders, because the States will say, "I have to come up with too much money to do this."

The truth of the matter is, they should come up with all the money, by the way, but that is another question.

I am afraid they will not do it.

What do we do? What do we do in my bill?

Well, we have a little thing here—and, by the way, that mandate of $11.8 billion—my staff just pointed something out very important. The mandate, as defined by Governors, to get any of this $6 billion, which the Republican amendment offers and which sounds wonderful over a 5-year period—by the way, it comes out over 5 years—in order to get that, the Governors of the Nation will have to spend $11.8 billion per year—per year.

So the more accurate comparison would be, they get $6 billion over 5 years if they spend roughly $60 billion over 5 years. Nice tradeoff, huh?

Well, Governor, welcome to the Federal Government. Welcome to the Federal Government.

So I say to my friends, let us take a look at what the bill says. The bill in the Democratic plan provides that—and by the way, let us take a look at what we are after here. Everybody is in agreement—my Republican friends, my Democratic friends who have a different view than me, me, and those who share my view on both sides of the aisle.

What we are trying to get at here is we are trying to get at this cadre of violent offenders who are presently in jail to serve out their term like they do in the Federal system. If you get sent to a Federal prison for a violent offense, you serve your time, no if's, and's, or but's. No judge can change it.

In a State prison we want them to do the same thing, right? We do not want to let out these violent offenders who make up, now, 49 percent of the State's population of criminal offenders, violent offenders with prior records of violence. They are serving, on average, roughly 40 percent of their time. We want them to serve 85 percent of their time, more like they do in the Federal system.

Then there is another cadre here, previous violent offenders who get arrested for a nonviolent crime. That is a robber or murderer who then goes and burglarizes. That is a nonviolent crime. Those are pretty bad actors by and large. That is 13 percent.

So you have roughly 62 percent of the present State population made up of people who have committed a crime of violence at least once, some many more times than once. We want those folks to stay in jail. We want to make sure they stay in jail.

Instead of telling the Governors they have to spend roughly $60 billion over 5 years to take care of those folks and the folks who never get into jail who are violent offenders, I respectfully suggest I have a better way to do that. It does not cost the States the money. Some States are not very enlightened in the way in which they deal with their prison populations, because of all those folks in the prison population of 840,000 persons, 160,000 of those people in jail right now are nonviolent, first-time offenders with minor criminal records. They are not the people we are worried about. We want them to pay the price to society. We want them to pay the price for their crime.

But how are we having them pay it now? They are taking up a maximum or a serious security cell with bars and clanking doors and guard towers and high walls, costing a lot of money. We have those people taking up prison space that, if that cadre were out of that prison in another prison setting, you would not have to release this 63 percent of the population that is violent. They could serve out their terms, and you would not have to build any new prisons, or only marginally more—fewer new prisons.

So it seems to me the smart way to do this is build boot camps. Why do I say that? We have a lot of Federal land out there that we are willing to give to the States in our legislation; Federal land they will not have to buy, abandoned military bases. I do not think these nonviolent offenders, committing a crime—they would not be in prison if it were not a serious crime —these nonviolent offenders should have to live in luxury. A lot of people going through basic training lived in quonset huts. Why should they not have to live in quonset huts? So I say send them to boot camps.

The boot camps cost one-third of, and some would argue as little only as one-fourth, but somewhere between one-third and one-fourth the cost of keeping a criminal in a boot camp for a year compared to the cost of keeping someone in a State prison cell for a year. I got the message of the Governors, in part at least, on their mandates. If you buy into our bill, there is $2 billion that the States can get, essentially with no strings attached. All they have to do is use that money to build boot camps.

They have to go out and build boot camps. They can say, "Look, Federal

Government, we are applying for a grant to house 12,000 of our State prisoners''—or 1,500 or 10,000—''in a boot camp setting. We would like to qualify for some of that $2 billion.''

What happens in the State of Delaware when they do that? We allow, by the way, regional boot camps. Let us say there is an abandoned military base somewhere in the Delaware-Pennsylvania-New Jersey-Maryland area. The four State Governors can get together and say, ''Let us get that base over here. The Federal Government will give it to us. Let us then uniformly apply for our share of that $2 billion.'' They apply for their share, and let us say it comes to $500 or $300 million for the four States. Then, based on how much money each of them put in, they get that number of prisoners in that area. So if it houses 10,000 prisoners and Delaware's share, based on the grant it gets, is 10 percent, Delaware gets to send 1,000 nonviolent criminals to a boot camp, where they work, where they stay in jail, where they serve out their sentence. They are not violent. They are not a threat to the community. They are not a threat to other people. They are not the people who are the predators out there.

What does it do for my Governor? Now, my Governor has received all Federal money to go out and build, all by himself or in cooperation with other Governors, a regional boot camp or a State boot camp. What does it do? Let us say he gets to put in 500 nonviolent offenders. Where does he get them? He takes from them from behind bars in the Smyrna, DE, prison or the prison in Georgetown, DE, or the Gander Hill Prison in the city of Wilmington. He takes them out. Guess what happens? Now you have room for another 100, 200, 500, 1,000—whatever the number is—violent offenders in the same cells that nonviolent offenders were in.

There are 160,000 of those folks right now. If all of a sudden we told the Governors of the States, you can take all your nonviolent offenders and we will find a place for them at one-third to one quarter the cost you are now spending for them, I think that is a pretty good deal. For a change, the Federal Government would be taking cost into consideration. For a change, we would be saying, ''Let us be smart about this.''

I know that is a rare thing around here. So my $2 billion in this bill does not sound as tough as that $6 billion that is being proposed. But the $6 billion is $60 billion. Governors are strapped already.

It is against the Senate rules to refer to the galleries so I will not refer to them but, if I were able to do that, if we took a vote in this Chamber of the non-Senators in this Chamber, I wonder whether or not in their home States they are willing to pass a referendum to raise the equivalent of their portion of the $60 billion that will be required for new prisons? I wonder how many would do that?

Maybe they would. In my State it is not that way because, if it were, it would already be done. Governors are very smart people. And legislators are very smart people. Their people are saying, ''By the way, why are these predators on our streets? Why do you not put them away for a long time?''

The reason is it costs billions of dollars. So why do we not get started? If someone has an improvement, I have no pride of authorship. If someone has an improvement on how we can better deal with freeing up, up to 160,000—by the way my bill will not free up all 160,000. If we spend more money it will. But if you have a better way to do it that does not impose a mandate on the Governors, that means we will really do something about it, then I am wide open. But with all due respect, I do not think this $6 billion proposal over 5 years does it.

Let me tell my colleagues another part. I say to my friend who is presiding, who again came to me very early on and has vast experience as a Congressperson, his State is like mine, being a Congressperson in his State was like being a Senator because he represented the whole State anyway, if I am not mistaken, for a long time. We are ''at large'' districts, as we say in our States. He came to me early on. He said, ''I want this thing to get tougher. I want to do more about these violent criminals.''

Let me point out to him and others who are in the Chamber, of the $3 billion that is in here—I think the number is $3 billion; it has changed for regional prisons—for regional prisons. They are not boot camps, they are regional prisons.

By the way, I introduced a bill 5 years ago to establish 10 regional prisons where States could send prisoners.

In this bill they say we are going to spend $3 billion over 5 years to build regional prisons. How are they going to do that? They are going to say that once the prison is built it is going to be manned by, if I am not mistaken, Federal prison officers. It will be a Federal prison. Right? And 50 percent of those cells, or those beds in those cells, must be available for Federal prisoners. Is that what they are down to?

OK, they changed it. It is a little better. Twenty-five percent of those beds must be for Federal prisoners. I just went through and pointed out we do not need anymore Federal prisons beyond what we authorized and appropriated for. We do not have a problem. So why are we building more Federal prisons beyond what we are already going to build? The rationale is that, I guess, is the Federal nexus to justify getting 75 percent of those beds available for State prisoners.

Look, I have been taught, maybe incorrectly, by my dad that—my dad has an expression. Sometimes I would come in and I would say when I was a kid—even now—''Dad, I'd like to do something, I'd like to do this,'' and he would say, ''Well, son, we can play this flat or round. We can do it the hard way or the easy way. We can do it simple or complicated. What do you want?''

He kind of taught me that usually flat is better than round in terms of getting something done. Usually easy is better than complicated and usually quick is better than a long time. In honor of my dear dad, I think this is making it nice and flat. Let us get it done now. Let us not complicate it. Let us give the States the ability to move and do it right now. Let us not complicate this thing.

Why do we need to complicate it? Why do we need to go out there and build regional Federal prisons when we do not have a Federal prison problem, when the Governors say do not give us mandates, when we are insisting that we need to take care of violent offenders and the easiest way to take care of violent offenders is to get smart?

I bet you if we polled the American people and said, ''Hey, look, does it make a lot of sense to spend 30,000 bucks a year to have someone in a maximum security prison who is not a threat to society but who violated a law of society where they should be punished?'' Give them the choice of whether or not you spend that, send them to boot camps, make them run, jog, do pushups, sweat their little ears off, make sure they actually understand they are paying a price for the crime they committed and where there is no incentive for them to escape because there is nothing in their background to indicate they are people who would be inclined to do that, I bet those folks are kind of like my dad: We can play it hard or easy.

Let us do it the easy way because the effect is to get violent criminals off the street serving their time in a setting that is a real live prison where they do not walk out the back door before their time is up, because they are shoved out the back door because of a prison-overcrowding court order and they are shoved out by one of these folks in yellow here, a nonviolent offender.

We did a little study in the State of Delaware about 5 years ago, and I am proud to say—I am not going to claim it is of my urging, but I suspect it is not in spite of my urging—we had a prison crowding problem in Delaware. I guess this was when Carlson was the head of the Federal prisons. My friend may remember. I guess that was probably about early 1982, 1983, somewhere in that range. We had this serious overcrowding problem, so I called to see whether the Federal prison system could help us to temporarily alleviate this overcrowding while we tried to work out our problem; could they take

a few prisoners into the Federal system—we would pay, the State would pay—while we got our thing squared away, if there were openings.

In the process, I then asked our then Governor to take a look at, do a little inventory of the people in prison. I will submit for the RECORD the precise numbers because I do not want to misspeak. It has been somewhere around 10 years ago this occurred. But I was astounded at the number of people who were taking up a prison cell, who were there for what we call a habeas, who were there awaiting trial for a nonviolent offense, who were there for nonpayment of their support—which they should be in jail for, in my view, but not in that circumstance—who were there for minor offenses. And yet we were letting out the back door of our prisons some real predators.

I may be wrong, and I do not want to cast aspersions on any State, but I will bet you those States are not unlike mine was. I will bet you there are a lot of nonviolent offenders who are not a threat to society who are in a cell, who could just as easily be in a boot camp behind a nice barbed wire fence setting, in a nice, comfortable, warm Quonset hut, getting up at 5 o'clock in the morning and running 3 miles and pretending like they are having fun.

I also think, by the way, we have to get smart. We have to get smart in terms of incarceration. The only thing we know about punishment for nonviolent offenders is certainty of punishment determines their likelihood to be recidivist.

So what is wrong with a nonviolent offender being confined in an area where they have to wear an ankle bracelet—nonviolent. Taxpayers have to be considered, too. It is like that old joke the kids have about another subject. Taxpayers are people, too. Taxpayers do not want to spend money, too, if they do not have to.

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

Mr. BIDEN. I will be delighted to.

Mr. DOMENICI. I have listened attentively to your criticism of one bill and your support for another bill. But I wonder if it would not be fair to ask you if it is not true that there is no money for any of the bills?

Mr. BIDEN. I am glad you asked me that question. I just happen to have with me a fellow from West Virginia who has been working on how we are going to get the money for this whole bill. I defer to him on just about everything. But at the appropriate time, he is here prepared to speak to that. It is fully our intention, I say to my friend from New Mexico, no matter what we spend in this bill, to fund it. That is why the Senator from Delaware introduced a bill that instead of the bill that I would love to do if we had all the money in the world, which would cost $24.8 billion over 5 years, I introduced a bill that was $9.6 billion—instead of a bill that we could use the help on.

We could use 100,000 cops on the street tomorrow very quickly, very wisely and fully funded by the Federal Government but that would be $18.2 billion. We do not have that kind of money, so that is why the Senator from Delaware has 60,000 police in here phased over, and it is the same way with regard to a whole range of other elements in the bill.

So I would be delighted to speak in a moment in detail to the legitimate concern of the Senator from New Mexico about whether we pay for any of this.

Mr. DOMENICI. I would just ask if you are aware—I happen to know a little bit about it and it is not my budget past. The subcommittee that funds this is the one I am ranking on, so as has been said, I know a little bit about the budget. We had to put up the money in these various programs in their infancy.

I just wanted to ask if you knew the entire Department of Justice funding in appropriations this year is $9.6 billion for the Justice Department. I just did some quick arithmetic. The underlying bill, the Democratic bill says we are going to increase this by $10.2 billion over 5 years, which is over $2 billion a year, I just rounded that——

Mr. BIDEN. That is correct.

Mr. DOMENICI. If my arithmetic is right, we are going to increase this funding, while we do not have any new money anywhere that I know of, 27 percent for this little piece of Government. There are many things that I agree we ought to be doing to help and I want to be there helping. But, frankly, I think we ought to be a little bit careful about talking about one bill being better than the other without putting out a caveat that maybe we do not have the money to pay for any of it.

With that, I will be back this afternoon. The Senator was not finished. I had been waiting, and I did not want to take the Senator's time, and certainly I did not want to take the time of my friend from Texas and my friend from Florida, who have been waiting more time than I. I just wanted to make a point and ask the Senator about it. I appreciate the graciousness.

Mr. BIDEN. Mr. President, I think the point of the Senator is accurate as it relates to both bills, and I think it is something the sponsors of either of the proposals for the entire crime bill have to meet because the Senator is correct.

Mr. BYRD and Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

Mr. BYRD. Mr. President, I am prepared to offer an amendment to provide the money, and I shall offer it on behalf of myself and Mr. SASSER, Mr. MITCHELL, Mr. BIDEN, and Mr. KERRY of Massachusetts.

Mr. President, I have listened with great interest as Senator after Senator has come to the floor and made urgent appeals for the passage of a crime bill and the creation of new anticrime programs. Make no mistake about it. I abhor the violence and senseless killing that is occurring daily in the streets throughout America as much as any of my colleagues who have stood on the Senate floor to demand community policing grants for local communities, construction of regional prisons, boot camps for violent juveniles, and gang prevention grants.

But, I want to take a moment to alert my colleagues to the fact that all of these new programs cost money—they will require discretionary appropriations to implement. And, unless the crime bill ultimately passed by the Senate includes a credible, accountable proposal to provide the means to pay for these new programs, the prospect of States and localities receiving the newly authorized assistance is unlikely.

It is for that reason, Mr. President, I shall offer an amendment as soon as I complete my remarks. This amendment will lock in place the 5-year personnel savings called for in the National Performance Review. It will then set aside sufficient funds to cover the 5-year cost of the pending bill. Funds would be placed into a newly created violent crime reduction trust fund in the following amounts: fiscal year 1994—$720 million; fiscal year 1995—$2.379 billion; fiscal year 1996—$3.168 billion; fiscal year 1997—$3.517 billion; fiscal year 1998—$2.492 billion.

The Appropriations Committee could make appropriations from the trust fund each year for the programs authorized in this act—the Violent Crime Control and Law Enforcement Act of 1993.

Finally, the amendment makes the necessary conforming adjustment in discretionary spending limits for fiscal years 1994 through 1998 to take into account the fact that funds have been set aside separately into the newly created violent crime reduction trust fund, as I have previously described.

In offering this amendment on behalf of myself and the other Senators whom I named, I am not unaware of the effect that this will have on the Appropriations Committee's ability to find sufficient resources over the next 5 years for other pressing national priorities.

The fiscal year 1994 budget resolution set binding discretionary spending caps for fiscal years 1994 through 1998 in both budget authority and outlays.

The caps will require large cuts below inflation for each of the next 5 fiscal years, 1994 through 1998, in both budget authority and outlays.

For fiscal year 1994, for example, discretionary budget authority had to be

cut by $24.7 billion below baseline, which is fiscal year 1993 appropriations plus inflation.

This level of budget authority, $501 billion, was also $7.9 billion below President Clinton's budget request and was $16 billion below a hard freeze—in other words, below the uninflated 1993 level.

The picture does not improve for the next 4 years. Further real cuts will be required each year under the binding caps that are already in place. The total 5-year cut below inflation will be $224.5 billion; and below President Clinton's request, cuts will have to be made totaling $59.7 billion.

Discretionary spending, therefore, has already contributed its fair share—and probably more than its fair share—of deficit reduction for the next 5 years.

Discretionary spending is the backbone of the Nation. It provides for our national defense; investments in our Nation's infrastructure; highways and mass transit; education programs; programs to assist the elderly, poor, and women, infants and children; research and development; health research and prevention programs; inland waterways; environmental cleanup; and law enforcement programs.

These and the rest of discretionary spending were cut to the bone during the Reagan and Bush years, and especially during the Reagan years. A little respite from the cutting was achieved under the 1990 Summit Agreement. But, under the 1994 budget resolution, we have voted to resume our cutting of these vital programs for another 5 straight years.

The Appropriations Committee will be unable to adequately address members' requests in the coming years if lower discretionary caps are adopted.

These are the reasons why I implore all Senators to resist the temptation to vote for amendments which will further cut the discretionary caps. Enough is enough. When we vote to end programs, as was done on the superconducting super collider, it is an easy vote to take those savings away from the discretionary caps. It will also be an easy vote to reduce the discretionary caps by any savings achieved from the upcoming rescission and so-called reinventing government bills. But, keep in mind as we weigh how to vote on such amendments, that we will need all of these savings and more in order to meet the caps that are already in place by the budget resolution that has already been adopted for fiscal years 1994 through 1998. We cannot meet those caps unless we are able to use savings generated from program terminations and from rescissions that will occur, not just this year but in every year. We will need those savings. If, instead of allowing the Appropriations Committees to use these savings, we are going to set 5-year caps which are extremely difficult to meet and then, to also cut those caps further on an ad hoc basis every time we enact rescissions or every time we terminate a program, then we will have succeeded, by 1998, in demolishing our Nation's potential for infrastructure growth in the immediate years to come.

We will have slaughtered our people's hopes and dreams at the altar of deficit reduction. Not because the deficit should not be reduced—we all know that it must. Not that we should not strive mightily to achieve a balanced budget as quickly as our economic and social well being will allow—we should. But because we will have taken the easy way out.

Mr. President, I have not quite completed my statement yet. But I ask unanimous consent that I may send the amendment to the desk and have copies made. I want to supply a copy immediately to the distinguished Republican leader, and then I will complete my remarks.

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

AMENDMENT NO. 1101 TO AMENDMENT NO. 1099

(Purpose: To fund the reduction of violent crime)

Mr. BYRD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia, [Mr. BYRD], for himself, Mr. SASSER, Mr. MITCHELL, and Mr. BIDEN, proposes an amendment numbered 1101 to amendment No. 1099.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike all after the first word in the amendment and insert the following:

B—State Prisons

SEC. 1321. BOOT CAMPS AND REGIONAL PRISONS FOR VIOLENT DRUG OFFENDERS.

(a) DEFINITION.—In this section, "boot camp prison program" means a correctional program of not more than 6 months' duration involving—

(1) assignment for participation in the programs, in conformity with State law, by prisoners other than prisoners who have been convicted at any time of a violent felony;

(2) adherence by inmates to a highly regimented schedule that involves strict discipline, physical training, and work;

(3) participation by inmates in appropriate education, job training, and substance abuse counseling or treatment; and

(4) aftercare services for inmates following release that are coordinated with the program carrier out during the period of imprisonment.

(b) ESTABLISHMENT OF GRANT AND TECHNICAL ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Attorney General may make grants to States and to multi-State compact associations for the purposes of—

(A) developing, constructing, expanding, and improving boot camp prison programs;

(B) developing, constructing, and operating regional prisons that house and provide treatment for violent offenders with serious substance abuse problems; and

(C) assisting in activating existing boot camp or prison facilities that are unutilized or underutilized because of lack of funding.

(2) TECHNICAL ASSISTANCE.—The Attorney General may provide technical assistance to grantees under this section.

(3) UTILIZATION OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this section.

(c) STATE AND MULTI-STATE COMPACT APPLICATIONS.—

(1) IN GENERAL.—To request a grant under this section, the chief executive of a State or the coordinator of a multi-State compact association shall submit an application to the Attorney General in such form and containing such information as the Attorney General may prescribe by regulation or guidelines.

(2) CONTENT OF APPLICATION.—In accordance with the regulations or guidelines established by the Attorney General, an application for a grant under this section shall—

(A) include a long-term strategy and detailed implementation plan;

(B) include evidence of the existence of, and describe the terms of, a multi-State compact for any multiple-State plan;

(C) provide a description of any construction activities, including cost estimates, that will be a part of any plan;

(D) provide a description of the criteria for selection of prisoners for participating in a boot camp prison program or assignment to a regional prison or activated prison or boot camp facility that is be funded;

(E) provide assurances that the boot camp prison program, regional prison, or activated prison or boot camp facility that receives funding will provide work programs, education, job training, and appropriate drug treatment for inmates;

(F) provide assurances that—

(i) prisoners who participate in a boot camp prison program or are assigned to a regional prison or activated prison or boot camp facility that receives funding will be provided with aftercare services; and

(ii) a substantial proportion of the population of any regional prison that receives funds under this section will be violent offenders with serious substance abuse problems, and provision of treatment for such offenders will be a priority element of the prison's mission;

(G) provide assurances that aftercare services will involve the coordination of the boot camp prison program, regional prison, or activated prison or boot camp facility, with other human service and rehabilitation programs (such as educational and job training programs, drug counseling or treatment, parole or other post-release supervision programs, halfway house programs, job placement programs, and participation in self-help and peer group programs) that reduce the likelihood of further criminality by prisoners who participate in a boot camp program or are assigned to a regional prison or activated prison or boot camp facility following release;

(H) explain the applicant's inability to fund the program adequately without Federal assistance;

(I) identify related governmental and community initiatives that complement or will be coordinated with the proposal;

(J) certify that there has been appropriate coordination with all affected agencies; and

(K) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support.

(d) LIMITATIONS ON FUNDS.—

(1) NONSUPPLANTING REQUIREMENT.—Funds made available under this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

(2) ADMINISTRATIVE COSTS.—No more than 5 percent of the funds available under this section may be used for administrative costs.

(3) MATCHING FUNDS.—The portion of the costs of a program provided by a grant under this section may not exceed 75 percent of the total cost of the program as described in the application.

(4) DURATION OF GRANTS.—

(A) IN GENERAL.—A grant under this section may be renewed for up to 3 years beyond the initial year of funding if the applicant demonstrates satisfactory progress toward achievement of the objectives set out in an approved application.

(B) MULTIYEAR GRANTS.—A multiyear grant may be made under this section so long as the total duration of the grant, including any renewals, does not exceed 4 years.

(e) CONVERSION OF PROPERTY AND FACILITIES AT CLOSED OR REALIGNED MILITARY INSTALLATIONS INTO BOOT CAMP PRISONS AND REGIONAL PRISONS.—

(1) DEFINITION.—In this subsection, "base closure law" means—

(A) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note);

(B) the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note);

(C) section 2687 of title 10, United States Code; and

(D) any other similar law.

(2) DETERMINATION OF SUITABILITY FOR CONVERSION.—Notwithstanding any base closure law, the Secretary of Defense may not take any action to dispose of or transfer any real property or facility located at a military installation to be closed or realigned under a base closure law until the Secretary notifies the Attorney General of any property or facility at that installation that is suitable for use as a boot camp prison or regional prison.

(3) TRANSFER.—The Secretary shall, upon the request of the Attorney General, transfer to the Attorney General, without reimbursement, the property or facilities covered by the notification referred to in paragraph (2) in order to permit the Attorney General to utilize the property or facilities as a boot camp prison or regional prison.

(4) REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall prepare and disseminate to State and local officials a report listing any real property or facility located at a military installation to be closed or realigned under a base closure law that is suitable for use as a boot camp prison or regional prison. The Attorney General shall periodically update this report for dissemination to state and local officials.

(5) APPLICABILITY.—This subsection shall apply with respect to property or facilities located at military installations the closure or realignment of which commences after the date of enactment of this Act.

(f) PERFORMANCE EVALUATION.—

(1) EVALUATION COMPONENTS.—

(A) IN GENERAL.—Each boot camp prison, regional prison, and activated prison or boot camp facility program funded under this section shall contain an evaluation component developed pursuant to guidelines established by the Attorney General.

(B) OUTCOME MEASURES.—The evaluations required by this paragraph shall include outcome measures that can be used to determine the effectiveness of the funded programs, including the effectiveness of such program in comparison with other correctional programs or dispositions in reducing the incidence of recidivism.

(2) PERIODIC REVIEW AND REPORTS.—

(A) REVIEW.—The Attorney General shall review the performance of each grant recipient under this section.

(B) REPORTS—The Attorney General may require a grant recipient to submit to the Attorney General the results of the evaluations required under paragraph (1) and such other data and information as the Attorney General deems reasonably necessary to carry out the Attorney General's responsibilities under this section.

(3) REPORT TO CONGRESS.—The Attorney General shall submit an annual report to Congress describing the grants awarded under this section and providing an assessment of the operations of the programs receiving grants.

(g) REVOCATION OR SUSPENSION OF FUNDING.—If the Attorney General determines, as a result of the review required by subsection (f), or otherwise, that a grant recipient under this section is not in substantial compliance with the terms and requirements of an approved grant application, the Attorney General may revoke or suspend funding of the grant in whole or in part.

(h) ACCESS TO DOCUMENTS.—The Attorney General and the Comptroller General shall have access for the purpose of audit and examination to—

(1) the pertinent books, documents, papers or records of a grant recipient under this section; and

(2) the pertinent books, documents, papers, or records of other persons and entities that are involved in programs for which assistance is provided under this section.

(i) GENERAL REGULATORY AUTHORITY.—The Attorney General may issue regulations and guidelines to carry out this section.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $2,000,000,000, to remain available until expended.

(2) USE OF APPROPRIATED FUNDS.—No more than one-third of the amounts appropriated under paragraph (1) may be used to make grants for the construction, development, and operation of regional prisons under subsection (b)(1)(B).

VIOLENT CRIME REDUCTION TRUST FUND

SEC. 1321A. PURPOSES.

The Congress declares it essential—

(1) to fully fund the control and prevention of violent crime authorized in this Act over the next 5 years;

(2) to ensure orderly limitation and reduction of Federal Government employment, as recommended by the Report of the National Performance Review, conducted by the Vice President; and

(3) to apply sufficient amounts of the savings achieved by limiting Government employment to the purpose of ensuring full funding of this Act over the next 5 years.

SEC. 1321B. REDUCTION OF FEDERAL FULL-TIME EQUIVALENT POSITIONS.

(a) DEFINITION.—For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code, but does not include the General Accounting Office.

(b) LIMITATIONS ON FULL-TIME EQUIVALENT POSITIONS.—The President, through the Office of Management and Budget (in consultation with the Office of Personnel Management), shall ensure that the total number of full-time equivalent positions in all agencies shall not exceed—(1) 2,095,182 during fiscal year 1994; (2) 2,044,100 during fiscal year 1995; (3) 2,003,846 during fiscal year 1996; (4) 1,963,593 during fiscal year 1997; and (5) 1,923,339 during fiscal year 1998.

(c) MONITORING AND NOTIFICATIONS.—The Office of Management and Budget, after consultation with the Office of Personnel Management, shall—

(1) continuously monitor all agencies and make a determination on the first date of each quarter of each applicable fiscal year of whether the requirements under subsection (b) are met; and

(2) notify the President and the Congress on the first date of each quarter of each applicable fiscal year of any determination that any requirement of subsection (b) is not met.

(d) COMPLIANCE.—If at any time during a fiscal year, the Office of Management and Budget notifies the President and the Congress that any requirement under subsection (b) is not met, no agency may hire any employee for any position in such agency until the Office of Management and Budget notifies the President and the Congress that the total number of full-time equivalent positions for all agencies equals or is less than the applicable number required under subsection (b).

(e) WAIVER.—Any provision of this section may be waived upon—

(1) a determination by the President of the existence of war or a national security requirement; or

(2) the enactment of a joint resolution upon an affirmative vote of three-fifths of the Members of each House of the Congress duly chosen and sworn.

SEC. 1321C. CREATION OF VIOLENT CRIME REDUCTION TRUST FUND.

(a) ESTABLISHMENT OF THE ACCOUNT.—Chapter 11 of title 31, United States Code, is amended by inserting at the end thereof the following new section:

"§ 1115. Violent crime reduction trust fund.

"(a) There is established a separate account in the Treasury, known as the "Violent Crime Reduction Trust Fund," into which shall be deposited deficit reduction achieved by section 1321B of the Violent Crime Control and Law Enforcement Act of 1993 sufficient to fund that Act (as defined in subsection (b) of this section).

"(b) On the first day of the following fiscal years (or as soon thereafter as possible for fiscal year 1994), the following amounts shall be transferred from the general fund to the Violent Crime Reduction Trust Fund—

"(1) for fiscal year 1994, $720,000,000;

"(2) for fiscal year 1995, $2,379,000,000;

"(3) for fiscal year 1996, $3,168,000,000;

"(4) for fiscal year 1997, $3,517,000,000; and

"(5) for fiscal year 1998, $2,492,000,000.

"(c) Notwithstanding any other provision of law—

"(1) the amounts in the Violent Crime Reduction Trust Fund may be appropriated exclusively for the purposes authorized in the Violent Crime Control and Law Enforcement Act of 1993;

"(2) the amounts in the Violent Crime Reduction Trust Fund and appropriations under paragraph (1) of this section shall be

excluded from, and shall not be taken into account for purposes of, any budget enforcement procedures under the Congressional Budget Act of 1974 or the Balanced Budget and Emergency Deficit Control Act of 1985; and

"(3) for purposes of this subsection, "appropriations under paragraph (1)" mean amounts of budget authority not to exceed the balances of the Violent Crime Reduction Trust Fund and amounts of outlays that flow from budget authority actually appropriated.".

(b) LISTING OF THE VIOLENT CRIME REDUCTION TRUST FUND AMONG GOVERNMENT TRUST FUNDS.—Section 1321(a) of title 31, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(91) Violent Crime Reduction Trust Fund.".

(c) REQUIREMENT FOR THE PRESIDENT TO REPORT ANNUALLY ON THE STATUS OF THE ACCOUNT.—Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof:

"(29) information about the Violent Crime Reduction Trust Fund, including a separate statement of amounts in that Trust Fund.".

SEC. 1321D. CONFORMING REDUCTION IN DISCRETIONARY SPENDING LIMITS.

The Director of the Office of Management and Budget shall, upon enactment of this Act, reduce the discretionary spending limits set forth in section 601(a)(2) of the Congressional Budget Act of 1974 for fiscal years 1994 through 1998 as follows:

(1) for fiscal year 1994, for the discretionary category: $720,000,000 in new budget authority and $161,000,000 in outlays;

(2) for fiscal year 1995, for the discretionary category: $2,379,000,000 in new budget authority and $884,000,000 in outlays;

(3) for fiscal year 1996, for the discretionary category: $3,168,000,000 in new budget authority and $2,191,000,000 in outlays;

(4) for fiscal year 1997, for the discretionary category: $3,517,000,000 in new budget authority and $3,342,000,000 in outlays; and

(5) for fiscal year 1998, for the discretionary category: $2,492,000,000 in new budget authority and $3,470,000,000 in outlays.

Mr. BYRD. Mr. President, we will have taken the easy way out to emasculate discretionary programs which, except for the Reagan defense buildup, did not contribute to the massive deficits of the Reagan-Bush years—instead of facing up to the unconscionable growth in entitlement spending and the hemorrhaging in revenues that occurred under the 1981 Reagan tax cuts.

In conclusion, the war on crime is of such an overriding concern that as in the past the Committee on Appropriations must take extraordinary actions to confront this issue. In 1989, for example, I offered an amendment to the fiscal year 1990 Transportation approriation bill to fight the war on drugs. Unlike that year, nearly all of the appropriations bills for the current year have already been enacted. We took extraordinary steps then, and we are willing to take such steps again to meet this dire emergency.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mrs. MURRAY). Who seeks recognition?

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah, [Mr. HATCH].

Mr. HATCH. Madam President, the Hatch-Mack amendment, as we all know, attempts to alleviate some of the problems by providing $6 billion over 5 years for prisons. Half of that money will be dedicated to the construction of 10 regional prisons to house up to 50,000 State and Federal violent offenders. The other $3 billion will be used as grants to States for operation, maintenance, jails, boot camps, and prisons.

So we provide for boot camps in here. We want to save the money. The boot camps will do that. We do agree with that, whereas the Democrat bill provides for boot camps but they do not get much for prisons. Yes, prisons have been expanded, but because of the Bush administration.

One of the first things this administration has done, the Clinton administration, is cut back on prison construction moneys by $130 million or at least called for the cut back on prison construction funds. We do not think that is the right direction to go. We know this is the right direction based upon the facts, statistics, the actual worries of people out there, mothers worrying about their children, this constantly revolving door policy that we have in our prisons today running these violent criminals in and out, and in just very limited, short periods of time without making them serve as they should which is causing us problems all over this country.

I have to say that we condition these grants to the States on States enacting proof-in-sentencing provisions. That is the condition of participation in the $3 billion regional prison program, on a State's adoption of sentencing guidelines which ensures offenders will serve 85 percent of their sentences.

We require them to reform bail laws, and we provide adequate recognition of victims. They will have to require adequate recognition of victim's rights, law-abiding citizens of this Nation. We demand a 10-year prison term which means 10 years, not 2 years.

I am getting sick and tired of convicted murderers on the average being sent to jail for only 15 years of which they serve less than 6. We wonder why we have the problems we have in our society today. It is not hard to figure out, to be honest with you.

It has been suggested that the Federal prison system is not overcrowded. While it is true that we engaged in an unprecedented prison expansion effort during the Bush administration, the fact is that the Federal Bureau of Prisons is at 38 percent overcapacity. Those are the facts. We have 89,483 inmates for a rated capacity of 58,108. Do not tell me that we have extra prison space in the Federal prisons. And despite this overcrowding, the Clinton administration has failed to spend over $1 billion in prison construction money it currently has.

Furthermore, as I have mentioned before, it rescinded $130 million this past summer, money that was supposed to go to build a new District of Columbia jail. As well, the Department shut down a prison in Florida in September. The truth is we still need more prison space at the State and Federal level.

My colleague from Delaware has questioned the wisdom of providing the States with prison construction money. True, the States need to build more prisons.

Mr. BIDEN. If the Senator will yield, I do not question the wisdom of providing money. My bill does provide the money. I question the wisdom of doing it the way you are suggesting it as opposed to the way I am suggesting it.

Mr. HATCH. I stand corrected then. I question the wisdom of the way you want to do with only $2 billion when we clearly need we estimate $6 billion to provide the prison space for these hardened criminals.

The States need to build more prisons, and perhaps they have been also recognizing this. The Hatch-Mack amendment steps up to the plate and helps the States out. Some have asserted that State correctional facilities have some concerns with the Hatch-Mack amendment. That is not surprising, when you consider their view of the world.

The executive officer of the Association of State Correctional Administrators recently wrote:

If we have not properly identified our customer base—

Can you imagine customer base?

then it is not likely that we are making a difference. In our business—

That is, corrections—

the customer is not the public, not the legislature, elected officials, not our staff, and not the victims in the community. Our customers are our inmates, probationers, and parolees.

I do not know about you. But that makes me doggone mad. I think they ought to be a little more concerned about the public, the legislature, the elected officials, the staff, and the victims in the communities.

It is no wonder the States have been slow in building prisons with that kind of an attitude. But it is also no wonder because the States have plenty of problems in raising the funds to do it. This bill the way we have approached it would help them.

Our bill mandates the State's adoption of truth in sentencing. This is not the case. We encourage it by conditioning half of the money in this amendment on requiring that violent offenders serve 85 percent of their sentence. If the State is having trouble complying with this incentive, we also give the Attorney General a certain degree of waiver authority. So the Attorney General can make some exceptions to this. Look. It comes down to this.

Nobody can argue that our prisons are not overcrowded. I do not think

anybody can argue that with a straight face. Nobody can argue that when we put people in for more time, there is less crime and the crime goes down. I think the facts show that. I think the statistics show that. The Justice Department statistics show that.

I think nobody can argue with the assertion that violent criminals ought to be put away for a long time, and they ought to have to serve that sentence. If they are in jail, rather than going out a revolving door because we do not have the space, as new violent criminals come along, then they are not going to be on the streets committing more violent crime. We are overrun with that today, and both the distinguished Senator from Delaware and myself have been making that point from the beginning of this debate.

What I would like to do more than anything else is to get together and get the reasonable people on both sides of the aisle to sit down and come up with a consensus bill that will resolve these problems; that will get us more police in the streets; that will get us more money for prisons; that will establish boot camps, which I think the distinguished Senator from Delaware and I totally agree on; that would provide the moneys for antidrug efforts and get the DEA some money and get the FBI some money; upgrade Quantico, the police academy where at least a thousand top people go through every year and are trained all over the world—the best in the world, I might say; help the FBI to beef up its agents, in addition to putting police on the streets; do the work that we need to do with regard to safe schools; provide enough money for rural crime problems, because we ignore the rural areas in many ways.

We would provide $465 million for that and have antigang language, plus $150 million for that. All of us, I think, would probably agree with that. I can go along with the Democrats' drug courts, even though I would like to limit it to those most likely to be rehabilitated. We have both agreed quite a bit on child abuse issues, where we can resolve those problems. Of course, I think we have to do some things on counterterrorism.

We need to have the President and the Attorney General with us on this matter. Frankly, we want it paid for, too. The distinguished Senator from West Virginia has offered an amendment to pay for it. We have to look at that. We hope that it is something that can be supported. But we would like to pay for it. We would like to have this money appropriated, rather than just doing this reauthorization bill and having it ignored. We can fight on other issues that are buzz issues and difficult issues, but if we can put all that together, people in America would say: My goodness gracious, finally they have done something to really help us with crime.

It has been 8 years since we have put together a really good, comprehensive crime bill, and I think it is time we do that together, and I hope we can.

We are going to have to get those who are the few on each side to come along, but I would like to see it happen. I really would like to see a bipartisan approach to this that would really make a difference in all of our lives. It would lend credibility to the program and, of course, it would cause the people in America to realize that we can work together in the best interests of everybody. I encourage our colleagues to help do that if we can.

The second-degree amendment, as I understand it, is simply Senator BIDEN's $12 billion program, paid for by reductions in Government personnel. If that is all we are going to spend on this, and a lot of that is going to go for boot camps, I have to say that it is not enough. Those who really want to do something about this have a chance of voting down the Biden amendment and voting up the Hatch-Mack amendment, which will really make a dent in what is going on in our society.

So I am prepared to go ahead to a vote, but I understand there are others who would like to speak.

I yield the floor.

Mr. SASSER. Madam President, the amendment offered a short time ago by the distinguished chairman of the Appropriations Committee establishes a mechanism to fully fund the initiatives contained in the crime bill, and that is what I think everyone wants here. That amendment really ought to pass by acclamation. We should not even need a rollcall vote here to agree to fully fund the crime bill.

It does us no good to pass a so-called crime bill that is simply a shell, that does not have the funding to effectuate the actual crime control measures that it contains.

Some are saying, "Where are we going to get the money to pay for it?" Let me say to my colleagues that we do have the money to pay for the crime bill, and the savings are absolutely real. Let me just say this about the crime bill: You are either going to pay now, or you are going to pay later. You are either going to pay one way, or you are going to pay the other. You are going to put these policemen on the streets; you are going to try to enforce the laws of this country, or you are going to pay through having more people engage in criminality, which damages the economy, and you are going to have more people going to the penitentiary to the tune of about $25,000 a year to maintain each one of them; or we can go ahead and put the police forces on the street to control crime.

We are going to get the money to pay for the crime bill from an amendment to the unemployment insurance bill that the Senate passed last week. That amendment was offered by the Senator from Texas, and it enforced the savings that were proposed in the Vice President's plan to dramatically cut the Federal bureaucracy. Under the amendment offered by the Senator from Texas to enforce the proposal that the Vice President had proposed, over 180,000 executive branch positions were to be eliminated over 5 years. The Senator from Texas observed at that time that this would result in a cumulative savings of over $21 billion in budget authority.

Madam President, over $21 billion in budget authority was saved by effectuating the Vice President's proposal to cut executive branch positions. That is not just the chairman of the Budget Committee talking; that has been confirmed by the Congressional Budget Office. We in this body have already voted in favor of the relevant cap to discretionary spending by a massive majority.

Now, the amendment offered by myself and the distinguished Senator from West Virginia, Mr. BYRD, and the distinguished majority leader takes a healthy chunk of these savings and puts them into a purpose that 80 percent of the American people say they are willing to pay more taxes for, fighting crime. That is what we are trying to do—putting police on the streets and keeping the criminals behind bars where they cannot threaten law-abiding citizens.

Our amendment would establish a violent crime control trust fund, and this trust fund would ensure the funding for all of the crucial components that the Violent Crime Control and Law Enforcement Act of 1993 marries together. In other words, we are creating a trust fund to finance the crime bill, to hire the 50,000 policemen and put them on the streets, to build the prisons to hold the criminals that the police put behind bars.

In total, I think we ought to ask ourselves this question and be serious about it. Do we really want to do something about criminality in this country, or do we just want to talk about it? The American people are tired of the talk. They want something done about it. I want something done about it. I am sick and tired of walking the streets here of Washington, DC, and being apprehensive, and I am sick and tired of seeing my children go out for an evening to a movie or something and wonder if some criminal is going to kill them in cold blood before they can get home.

It is basic that a Government, if it is to be called a Government, must provide security for the lives and property of its citizens. And that is what this crime bill is all about.

The distinguished chairman of the Appropriations Committee and myself and the majority leader with this amendment are saying we are tired of talking about controlling crime. We

want to do something about it. We are going to put the financial resources behind this crime bill to make it work, and we are going to establish a trust fund to put the funds in there so they will be available and they cannot be pilfered for other purposes.

In total, the amendment would lock in $12 billion from the savings that come from reinventing Government. These funds would be placed in this trust fund to be used for the sole and exclusive purpose of combating violent crime. That is what the American people want to happen.

In addition, the caps in discretionary spending would be adjusted by the amount placed in the trust fund. By adjusting the caps, the Appropriations Committee can disburse the funds among the relevant law enforcement and crime control programs, but they cannot—and I want to make this crystal clear—they cannot use the money for anything else but fighting crime.

Just look at what they will be able to do. This trust fund will safeguard funding within the Federal budget to place an additional 100,000 police officers on the streets of this country; 100,000 more policemen will be walking the streets because of the funding we are putting in this trust fund to control violent crime.

The violent crime control trust fund will guarantee funding for the construction of additional prisons, to incarcerate violent criminals, and it will also build boot camps to try to teach first-time youthful offenders basic discipline and basic obedience to the civil laws of this country.

The trust fund will secure funding for the police corps program which I, along with Senator SPECTER, introduced, and this police corps will provide a very important addition to the police forces all across this country.

The violent crime control trust fund will put a padlock around funds to combat rural crime. Rural crime is growing much faster than crime in urban areas. The control of rural crime is very important to my State of Tennessee.

Now, we have heard other proposals, such as the one voiced by the Senator from Texas, to use some of the reinventing Government savings to build more prisons. There is nothing wrong with building more prisons. It is just that the proposal offered by the Senator from Texas simply does not go far enough. His proposal would pay only for prisons and ignores the need to guarantee funding for police forces, more police officers, and for rural crime initiatives.

If we just put the money in to build prisons, I think this is certainly a one-sided and shortsighted approach that is not going to do much to deter this Nation's crime problems. A prison deals with the end results of crime, and it does nothing to stop crimes that are occurring in the first place.

What we want to do is to put the police officers on the streets to protect the citizens of this country, to prevent the crime from occurring. We must have a comprehensive approach to addressing crime, and we must provide the resources to combat crime at all levels. And that is what the amendment that we are offering achieves.

Mr. President, I have heard a lot of rhetoric around here for a long time about being tough on crime. We hear the rhetoric, but the statistics get worse and worse and worse.

My amendment says, let us end the political games surrounding the crime issue and let us provide the real resources—the real resources—to wage the war against violent crime and to turn back this wave of criminality that is sweeping all across this country.

Mr. President, this amendment fulfills all of our colleagues' desires to fight crime, and it does it while being fiscally responsible and prudent. I believe that all of us can vote for this amendment, and certainly we all should vote for it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, before he leaves the floor I want to commend our colleague from Tennessee. He is extremely credible on this issue, and this amendment deserves the serious attention of every single Member of this body.

The Senator from Tennessee over the past number of years has been the chairman of the Budget Committee and has spoken time and time again about the staggering problems we face in our economy and the association of those problems with the deficit issues and spending problems.

He is doing what ought to be done in any serious debate about crime, and that is coming up with some financial resources to do what everyone says they want to do.

Madam President, I ask unanimous consent to be added as a cosponsor to the amendment of the Senator from Tennessee.

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

Mr. DODD. Madam President, it also strikes me it always seems to be about in the months of September and October in election years we seem to hear more about this subject than others. The problems go on every single day. Young people are losing theirs lives in record numbers, but there seems to be an association with politics and politicians' interests in this subject matter.

Then we also are confronted with this gamesmanship of who is going to appear tougher. In my own view—and I say this with all due respect to those who have all sorts of various ideas in this bill—I happen to agree with the Senator from Tennessee. The best thing, I suspect, we can do in this body would be to give our communities and our States some resources to go out and hire the police officers and other equipment that they need to do the job. They do not need to be lectured by 100 Senators as to how they can do their job. They would like some help. Fewer speeches, a little less politics and a little more just dollars-and-cents help and then get out of the way and let them do their job.

Having said that, of course, we will now spend the better part, I guess, of the next 2 weeks competing with one area here as to who is more muscular when it comes to the issue of dealing with crime. Of course, most of us know that the crimes that our States and localities deal with are at the local level, State laws, not Federal laws. Nonetheless, it deserves our attention here. Obviously, the problem is monumental in scope.

I want to focus, if I can, on just one aspect of this, something that I spent some time on over the last few years, and tragically this morning in my own State the issue gets highlighted once again. I want to talk about youth violence that is sweeping our country and has been growing in staggering proportions.

Madam President, this very morning when we gathered in this Chamber, in front of the New Britain High School in New Britain, CT, 18-year-old Miguel DeJesus, about to enter the school building, was shot down.

This was not a shooting in the dark of night in an isolated alley. The shooting took place at 7 a.m. as students were getting off the school buses a few feet away. This was not a shooting in an enormous city—New Britain's population is 75,000 people.

Miguel DeJesus is now in critical condition with multiple gunshot wounds—shot five times, I am told. The police, of course, are investigating the shooting and whether or not it was gang related.

The story, Madam President, is horrifying because of its violence and even more horrifying because such incidents are becoming commonplace. Thousands of our children in Connecticut and across this Nation are now the casualties of an undeclared war, and there is no cease-fire within sight.

Schools, whose primary discipline problems used to be students chewing gum or running in the halls, now have to worry about whether or not their students are going to be gunned down in broad daylight in front of the school building.

On several occasions this year, I have come to the floor of this Chamber to speak about the rising tide of youth violence ravaging our Nation. Today, as we debate anticrime legislation, I want to focus on the dramatic rise of youth gang violence, the kind of violence that may have caused this morning's shooting in New Britain, CT.

Madam President, there are now an estimated 400,000 gang members ages 9—as hard as that may be to believe—ages 9 to 18 in this country, and gangs are spreading, as this first graph I put up here shows. It shows that gangs have fanned out across the country and are no longer limited to a few major urban areas.

But can you see the rise from 1960 through 1991. It sort of flattened out in the late 1960's, and then it just has gone in almost a direct straight-arrow approach up to where we now see the number of cities with gangs in this country. So it is growing at an incredible rate.

Along with this increase in gang membership—and I am going to put up a second chart here—there has been a corresponding rise in gang violence in the United States.

Again, you see, dating from 1987, not as far back as 1960, but 1987 through 1992, we just see, again, a dramatic increase in the number of gang violence.

Madam President, despite what many of us may think—and I think it is important to note this—gangs are no longer a problem that exists only in major urban areas. According to the Department of Justice, gangs have appeared in nearly every State of the Nation. From Kansas to Connecticut, from New Mexico to Hawaii, from Ohio to Montana, gangs are terrorizing our communities.

Recently, by the way, a month ago or so, the city of Hartford was literally paralyzed for several days as a result of open gang warfare in the streets, and with the police department overwhelmed by their inability to really respond to that in an appropriate way, it caught the national attention. But it is an example that the capital city of my State literally appeared as though it was in some Third World country as a result of gang violence.

Many Americans moved into the suburbs, of course, when this problem first began to emerge, to small towns, only to find that crimes had followed them.

My colleague from Tennessee just briefly talked about the problems of rural crime in his State of Tennessee. Any Member of this body can get up and talk about what is happening in smaller communities.

This is not, again, a problem of major urban areas just on the east or west coast. All across our Nation we find that urban drug-dealing gangs are migrating from large cities in search of untapped drug markets, less competition and greater profit margins.

It is often assumed that gangs are strictly made up of African-American, Latino and Asian males; next-to-no white or female youth in gangs, we are told. The fact is that gang membership cuts across all ethnic and racial and gender lines.

The statistics show that while there are various sizes and percentages, we are seeing a dramatic increase, for instance, in the number of white gangs. It has risen 61.7 percent since 1985. This represents the greatest percentage increase, I might add, of any racial or ethnic group. It is the white gangs in the country.

So people assume this is just a black or Hispanic or Asian problem.

The Department of Justice contends that female gang members, while small in numbers right now, represent a serious concern. Female gangs exist throughout the country. Forty cities now report having independent female gangs. Girls are increasingly involved in youth gangs, violence, and drug traffic.

Madam President, again we have a very good bill here that has been proposed by the chairman of the Judiciary Committee. There are a lot of good ideas in it to try to deal with some of these problems.

And I underscore, I think, the importance of what the Senator from Tennessee highlighted here: It needs to be comprehensive. We need to do what we can to provide resources to people, rather than lecturing people, because they are just as concerned in the communities of this country with gang violence as any Senator or Congressman is. They do not need to be told necessarily ad nauseam how bad the problem is. They would like us to take some of our resources and bring them to bear so we can begin to deal with the problem. And we are going to try to do what we can in our schools.

I mentioned the tragedy in New Britain, CT. We are trying to get some assistance to our schools because of the violence that is located there. Every single day, Madam President, 135,000 children bring a gun to school in America. One out of five brings a weapon of some kind; if not a gun, then a knife or something else, to defend themselves.

I mentioned earlier school disciplinary problems used to be relegated to chewing gum or running in the corridors. These children are bringing these weapons not because they intend to be the perpetrators of violence, but to defend themselves, in many cases, or in most cases.

And yet you see, even with that, the explosion of problems. Before today ends, 12 children will die because of violence in this country. And we know already one of them may be one of those statistics as a result of a gunning down in front of a school in my State this morning.

We had testimony a few weeks ago—I held some hearings on this issue—of what can we do about it. A principal of an elementary school in Bridgeport, CT, has to put bulletproof glass up in front of her kindergarten—bulletproof glass in front of her kindergarten—because of this.

The children of the Munoz Marin School in Connecticut get bused two blocks to school in the morning because of the violence.

In New Haven, CT, they spent $700,000 of the education budget for metal detectors and for cops in the corridors; part of the education budget of that city.

So the school violence is just staggering in proportion.

We have a couple of proposals, Madam President, that I will offer that take some of these resources and gives some assistance to these schools to try to deal with these problems. I do not mean just in the mechanical or technical equipment. We do that. But also if we can get some of these young people—if this case this morning was a gang-related incident, how do we get these young people to start thinking about alternatives to that as a way of finding some sense of belonging? How do we teach children that never learned because no one is at home about conflict resolution, resolving their problems? Can we do that?

I think, unfortunately, the schools are going to have to assume some of that responsibility. We are offering some help in that regard with some ideas that we will offer to the committee for their consideration in this area.

But, again, Madam President, it is a tragic irony that on the very day we begin the consideration of this legislation, the major story in my State this morning is a young student about to enter school is shot five times, creating pandemonium, I might point out, among the student body, since all of them were getting off their school buses. The pools of blood were there for these children to see and to watch as the entire incident occurred. That should not be a part of a child's life. It should never occur or, if it does, under the rarest of circumstances.

And yet, every single day, it is happening more and more.

So I commend the amendment being offered by the distinguished Senator from West Virginia, the Senator from Tennessee, and the Senator from Delaware on this particular aspect as a funding scheme. They are absolutely right to do so.

Madam President, I want to commend the Senator from Delaware for his efforts in this regard. He has been on this floor countless days over the last several years trying to get a crime bill passed. I hope this time he will succeed; that we will minimize the talk; that we will really try to provide some resources to people; and, as I said, earlier, kind of get out of the way and let the people who know what they are doing do their job.

To me, that is the best help the U.S. Senate might be to our local and State law enforcement officials. They need some official help, they need some resources from us, but they do not need a lot of the lecturing. These good people know the job has to done.

The Senator from Delaware said that here, and he was absolutely correct.

Mr. BIDEN. Will the Senator yield?

Mr. DODD. I am glad to yield.

Mr. BIDEN. Let me say, the Senator, I know, at a later time, when he has an opportunity, is going to introduce several amendments. I just want to say to him that I think the thrust of his initiatives, several of which he mentioned in his brief talk thus far, are the heart of what we have to deal with.

Granted, this bill has 60,000 police officers in it for community policing; granted, it has a vehicle and a mechanism to get nonviolent offenders to boot camps and violent offenders behind bars; granted, it has money for drug courts to impact on recidivism; granted, it has money for drug treatment in prisons.

But the one thing that we have to focus on, which we have neglected, as a nation, for the past 12 years, is focusing on juveniles.

We have a cadre of young people—as my colleague knows better than I, because of all the work my colleague has done on juvenile issues and children's issues—who are literally being trained to be the predators of tomorrow, who literally are out there without any supervision or any reasonable prospect of supervision because of their family circumstance or even when they find themselves within the judicial system, the criminal justice system, without any reasonable prospect of guidance or control.

I pointed out yesterday there are 600,000 kids who are on probation for drug offenses, minor drug offenses, who have absolutely no supervision. They have gone into a court setting, they have concluded that, and they have either pled or the court has concluded they have violated the law for the first time relative to a drug offense. They have essentially been put on probation, not put in a cell, not put in a boot camp, not put on anything anywhere, but essentially put out on the street with absolutely no prospect that anybody is there, whether it is a drug program, drug testing, mentoring, or just reporting to a probation officer. There is no prospect of anybody being able to intervene other than the school system which is already overloaded, as the Senator points out.

When my colleague and I were going to school—can you imagine? I cannot imagine going through a metal detector having to get into an airplane—well, I never got in an airplane. But can you imagine going to school and having to walk through a metal detector? Focusing on juvenile gangs, gang killings, the juvenile justice portion of this bill, I respectfully suggest, even after we pass this crime bill—I want everyone to keep their eye on the ball here. This crime bill is only one of four or five major pieces of an attack that we should be waging on violent crime in America.

We are going to do this—God willing, and the creek not rising, and the Republicans not filibustering—we are going to do this bill. Then we are going to do the Brady bill and gun legislation. Then we are going to do the Violence Against Women Act, which the Senator from Connecticut knows a great deal about. Then we are going to do the drug bill, which is a major piece of legislation which we will get to the beginning of next year.

I sincerely hope, regarding the additional ideas the Senator has talked about throughout his career relative to the criminal justice system and the youth of this country, I hope he will do what he is doing here on that drug bill as well, because people want to ignore them. We tend to ignore this, but if we do not stop kids from getting into the crime stream and drug stream in the first instance we end up debating what we are debating now, whether we are going to find an extra 30,000, 50,000, 300,000 prison spaces at $25,000 to $30,000 a shot.

So I compliment him for that one thing. There are many things about the career of the Senator from Connecticut that are admirable; none more than his becoming the expert he has on the problems of the youth of this country, not only in terms of their education but in terms of how the devil we keep them out of the crime and drug stream.

I thank him and look forward to his amendment when we finish.

Mr. DODD. Madam President, I thank the chairman of the committee. I will leave these statistics up. I suspect that of 600,000 young people who are on probation because of some drug offenses, the overwhelming majority of them are included in our 400,000 figure that belong to gangs in this country. I suspect there is a correlation there.

So, with the chairman's permission I will leave these two charts over here for Senators who may wish to take a look at them just to show the dramatic increase that occurred in this country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Madam President, back on the specific amendment that is the underlying amendment here relating to prisons. I would like to, once again, reiterate a few things and speak to a few points made by my distinguished colleague from Utah.

The issue here is not whether or not we should help the States—we should, we must, and we will—the issue is how we help the States with their prison overcrowding problem. The reason I keep going back to the States here is I think the most important thing for us to do in this debate is not mislead the American public.

In the entire system of incarcerated persons, Federal and State, we have behind bars in the State and local prisons and jails 1,290,000 inmates. At a Federal level, we have behind bars 80,000 inmates. I put this up to illustrate two points.

No. 1, the States have a much bigger and more serious and more difficult problem to deal with than the Federal Government. It is not because they are better or worse. It is because under our system when the Founding Fathers wrote the Constitution, they did not want a national police force. They did not want the Federal Government to be able to use its police powers to, in fact, run the States.

So we have been fastidious as a nation to make sure that we do not have a national police force that has concurrent jurisdiction on everything with the States and/or superseding jurisdiction over the States in criminal justice matters.

So as I have been involved in this issue from the days back when Senator McClellan headed up the Subcommittee on Crime, to when Senator THURMOND was the chairman of the Judiciary Committee, and now with my friend from Utah being the ranking Republican on the committee, I have thought one of the serious mistakes we have made at the Federal level is we have, back as far back as Richard Nixon—when I entered politics I was elected in 1972 when he was reelected President—we have, beginning with Nixon, so vastly overpromised what the Federal Government can or cannot do relative to street crimes in our neighborhoods.

There is much we can do; much we should do; and much we do do in this legislation. But ultimately, 95 or 96 percent of all the crimes committed in this Nation are committed at a local level, within the total jurisdiction of a local police officer and beyond the authority of jurisdiction of an FBI agent or a drug enforcement agent or a Federal official of any kind, even if the Federal official wanted to exercise that jurisdiction.

So I want to make it clear in this crime bill, not merely that we want to help the States, but ultimately this is a State responsibility which we can impact on but cannot solve at a Federal level.

We have been declaring wars on crime and drugs to the point I think we have diminished and diluted our credibility, all these wars we have declared.

I would just like to win a couple of battles. I do not want to overpromise. I am tired of overpromising. But this bill has 60,000 cops that will go out on the street with State, county, or local police uniforms on, partially funded by the Federal Government and the Federal Treasury, to make the streets safer. One thing we know, if there is a cop on the corner, on that corner it is less likely there is a crime committed at that time when he is on the corner. There is not a lot more we know with certainty.

As I said yesterday, there are those out there who say, when I read the editorials and hear other people speak—not my colleague from Utah but others—that, you know, we have tried the cops and bricks and mortar routine.

We have not tried the cops, bricks, and mortar routine. I am reminded, and I see my friend from Maine—and he is my friend, as they say in this body—is on the floor. He is a close personal friend. I do not want to ruin his reputation by acknowledging that, but he is. And he also is a poet, seriously a poet, a published poet. And he will, as he does every time I quote someone or try to recall a passage from literature, and I do my best at it, he is always kind enough when I finish to wait until we are in the Cloakroom and say, "Joe, no, it was the following."

I am trying to recall from memory, I think it was G.K. Chesterton who said about Christianity, "It is not that Christianity has been tried and failed. It has been tried and untested." Or something to that effect.

That is about where we are on cops and crime. It is not that we have tried to put a lot of police on the street and provide the appropriate incarcerating circumstance for those who are convicted and have failed, it is that we have not tried.

The fact is, when I came to this body 20 years ago, in the United States of America, for every one felony that was committed, one crime, there were three police officers in America at the State and local level. Now for every one police officer at the State and local level, there are three-point-something felonies committed.

So it is not like we have kept pace. The top 10 largest cities in America have had in the recent past an increase in their total police population of only on average 1.8 percent. But yet when you listen to the editorial writers and you listen to the people who were looking for root-cause solutions, as I am, they always juxtapose that against cops, as if we are offering cops as the solution and we are offering prison space and boot camp space as a solution. We are not offering that as a solution, we are offering that as something to stem the hemorrhage.

We must take back our streets, not figuratively, literally take back our streets. With all due respect to all those initiatives that may or may not come forward as we debate violence in America over the next 6 months in this body, notwithstanding all of them, none of them can succeed unless we put a tourniquet on this now. One of the elements of the tourniquet is more police officers, more prison space and boot camp space.

But my plea to my colleague from Utah and all of my colleagues who very shortly will get to vote on this proposal is let us be smart about it. Let us use our heads. If you can, with one-third the number of dollars, accommodate the same total number of convicted felons, does it not make more sense to do that? It seems to me it does, and what the bill provides is $2 billion that States can do one of three things with, with no strings attached:

The States can take that $2 billion over 5 years and if they have a prison system—by the way, I will ask my staff to correct me if I am wrong because my staff really knows this material inside and out. I think I know it pretty well—I believe the cost of an inmate, the cost to the taxpayers for an inmate in jail for a year, 95 percent of that cost relates to things other than the cost of the prison cell; 5 percent goes to incarcerating a person in a prison cell, building the bricks and mortar and putting them behind bars; 95 percent is what we call an operating budget. It means the number of guards, and it means everything from the electricity to the pneumatic locks that are on the doors and the cost of operating them.

Some States—maybe the State of Washington, I do not know, the State of Delaware would be eligible as well—some States have built prisons, have the bricks and mortar all done, sitting there with empty prison spaces, but they do not have the money to operate those prisons.

Under our legislation, they would be able to take that money and they would be able to use it to operate their State prison systems that are there but not able to be run, and/or to supplement the operational cost of an existing system. But they also would be able to do what my State will do, I believe, and many will do. They will be able to go out and build boot camps. They will be able to go out there and take an existing piece of Federal property that is abandoned potentially and/or another piece of property they find and at a very low cost, essentially clear the land, put in a chain-link fence with some barbed wire at the top of the fence, instead of bricks and mortar, built safe and secure, Quonset huts or the equivalent, and put these people who are first-time offenders, nonviolent and basically under the age of 28, into those systems.

When they have them in those systems, they will be able then to make them drill like they do in the military; make them take education courses; if they have a drug problem, put them in drug treatment behind that fence, behind that barbed wire, serving their sentence.

For example, there are certain things I have learned in my years working on this, I say to the Presiding Officer. When I first got here, the general point of view was that only that person who had a drug problem who acknowledged the existence of a drug problem and voluntarily went into a drug program could be helped. Guess what? That is not the way it works.

The rate of cure and/or the number of months that they stay away from drugs, depending on any measure you take, is essentially the same for someone who says voluntarily I want to go to a Betty Ford clinic as opposed to someone to whom the judge says, "You're going to jail, and in jail you're going to have a drug treatment program you have to participate in." Same impact.

So why do we not—since we let out of the jails literally last year, the States released tens of thousands of people who were drug addicted. They served their time, they are back out on the street. It was 200,000 people last year. The State said, "Now you have served your sentence, we open up the clanging door, we let you out, and what do we let you out with? You served your time, but you are drug addicted."

So what are they going to do? They are going to go up and steal your purse, steal your car; they are going to mug the people who are here to watch the proceeding or the people speaking, like me. Why? Because in prison they are able to get drugs and in prison there is no drug treatment.

So you should be able to treat them. We are not coddling these people. Some of my barbed-wire friends, as I refer to them, "We're going to get tough on crime and all the rest." That is great; let us get tough. They characterize treatment in prison as somehow coddling prisoners. They are in prison, behind a barbed wire, but we would allow the States to use those moneys.

State corrections professionals who have built the existing boot camps, often called shock and incarceration programs to punish offenders harshly and intensely, have done this in marked contrast to the relatively easy terms of regular prison terms. These boot camps are not easy "pickins." The average 23-year-old would rather go into a prison cell with all his buddies.

By the way, one of the sad things about prisons, if you go into the communities—I will ask my staff to get me the number; I hope they are listening back there—but there is a startling figure; that an incredibly large amount, high percentage of those people who have been sent to prison in the last year have had a mother, father, brother or sister in prison. Prison is not new to them—37 percent; 37 percent of the people we have in the recent past and will in the near future send to jail, into a prison cell, have had or have a mother, father or sibling in jail.

When you go back into the neighborhood, by the way, and a lot of neighborhoods, black and white and Hispanic in this country—it used to be when I was a kid and you went to prison—I did not live in a real tough neighborhood, but I played a lot of ball in real tough neighborhoods—you go in and even in those neighborhoods, if anybody had been to prison, your brother, uncle or

somebody, everybody would say, "Where's Uncle Charlie?" "Well, he's on vacation." "Where is your brother, Harry?" "He got a job in Tuscaloosa."

Now when you get out of prison, you walk back home and say, "Man, I did my time; I've been in prison." Prison is a badge of courage.

So you let the kid make a decision, 18-, 20-year-old kid, do you want to go to prison where your brother Charlie is and, as I said, 37 percent of them have a brother in prison, or you are going to go to a boot camp and get up at 5 o'clock in the morning, run 3 miles, do pushups, go through a drug treatment program, you are going to have a drill sergeant stand over top of you and screaming at you, you are not going to be able to move. I promise you, most will pick the prison.

So I just want to make it clear, and I will end with this—I see two of my colleagues seeking recognition—Madam President, in the bill the $2 billion allowed for boot camps is not an easy alternative. It is tough. Second, it is not a mandate to the States. They do not have to come up with the total of $11.8 billion in State moneys that they do with the alternative being offered. And last, they work.

Mr. COHEN. Will the Senator yield?

Mr. DORGAN. Madam President, I wonder if the Senator will yield.

Mr. BIDEN. I will yield for a question from my friend from Maine, and then I will be happy to yield.

Mr. COHEN. I was just going to pick up on a point the Senator made. I have heard the Reverend Jesse Jackson give many speeches and, as the Senator pointed out, prison for many of those who are entering it is not a step down; it is actually a step up; that they in fact look forward to something more than they have currently on the streets.

Second, the Senator earlier indicated I am in the habit of correcting him with some precision. I believe he was quoting G.K. Chesterton, and as I recall the correct, precise quote the Senator is referring to is that "the Christian ideal has not been tried and found wanting; it has been found difficult and left untried."

Mr. BIDEN. He is absolutely correct, and I am glad, Madam President, that the whole Nation has observed the accuracy of my statement that my friend from Maine never lets me down. That is why I feel safe in attempting to quote people, knowing that ultimately before the day is over the RECORD will precisely reflect the quote. I sincerely thank him for it, and I yield the floor.

Mr. DORGAN. I wonder if the Senator will yield for a question.

Mr. BIDEN. I will be happy to yield for a question.

Mr. DORGAN. I thank the Senator very much.

I will refrain from using any quotes as long as the Senator from Maine is on the floor at this point. I appreciated that exchange.

I would ask the Senator a question about boot camps. The Senator made the point, and when I was in the Chair for an hour I listened intently to the point the Senator is making, with respect to the cost. The Senator was saying why do we not do it smart for a change.

When the Senator talks about boot camps, that term is more general than talking just about the boot camps that are now used for people with very short sentences to move them in and out for a couple of months.

My understanding of the Senator's proposal—and we are going to offer an amendment later that I have been involved in—is these boot camps or prison camps would be designed to hold nonviolent prisoners who are now taking up a prison cell with a thick door and a lockup. In an alternative incarceration facility, using Fort Dix, for example, as I understand it, Fort Dix is being built for about $20 million, converting a base to an incarceration facility, and it would have cost $100 million were they to build a regular prison, with all of the things that are encompassed in the construction of a regular prison. So for about one-fourth or one-fifth, you build an alternative incarceration facility.

The point of that is you have about 50 percent of the prisoners who are nonviolent you can move to a much less expensive facility, incarcerate them there, open up prison cells for violent people, and put them there and keep them there.

The solution then has been a solution that costs one-fourth or one-fifth of what others propose to spend, and you accomplish the same thing. You get violent people off the street because you now have a place to put them.

As I calculate what the chairman is talking about, the potential exists for putting 100,000 to 150,000 people who are violent criminals in regular prison cells, who are not now in prison, because you will have established at much less cost alternative incarceration facilities and moved nonviolent prisoners into those facilities.

So when the chairman talks about boot camps, my understanding is we are talking about something more than boot camps—alternative incarceration facilities.

Mr. BIDEN. The Senator is absolutely correct. Maybe I should call them prison camps with fences and wires and quonset huts rather than with steel doors and expensive cells and stone walls.

The Senator is absolutely correct. Not only does it do the things he suggested, but it does another thing. The States, if they choose, can take part of this money that they would get under our proposal, build a prison camp-boot camp, take someone who is a first time offender serving 2 years in jail for a nonviolent offense, put them in that facility and put them into a tough regime as well as drug treatment. And if the statistics hold up as they do with drug courts, which is a separate issue, people who are first-time offenders who have drug treatment followed on by drug testing, that is, released and at the time of their release they must be tested periodically, the rate of recidivism for those first-time offenders drops from around 35 percent to 3 percent.

So not only can we do it cheaper, if the States wish to do that, not only can we do it at less of a cost to taxpayers, not only can we free up prison space for hard, violent offenders who are now getting out, we can also, if we are smart, increase the prospect that the first-time offender will not be a second-time offender. You have a better shot at doing that in that prison camp setting than you do doing that in the big house.

And so for a whole range of reasons, it makes more sense. In addition to that, the Senator from North Dakota is not going to have to go back home and tell his Governor he has to go to the legislature and raise a whole lot more money to put no more hardened criminals behind bars than this will essentially do.

Mr. DORGAN. If the Senator will yield for one additional question.

Mr. BIDEN. Sure.

Mr. DORGAN. This is an interesting discussion because as I listened to it, in some respects I hear people saying well, if we simply throw more money at this, that will solve the problem. The question is not are we doing enough. The question is are we doing the right thing.

Mr. BIDEN. Precisely.

Mr. DORGAN. In this circumstance, what we are saying, at least a number of us who are interested in alternative incarceration facilities, is to take nonviolent people and put them there at much less expense. We are saying we can provide far more prison spaces, cells, regular cells for violent criminals at a fraction of the cost.

As I compute this, the potential exists to take 100,000 to 150,000 cells, empty them, make them available for violent criminals, and take them off the streets and put them there and keep them there; and that compares, even though we would spend only about 60 percent of what the alternative would spend, with probably 25,000 or 30,000 regular prison cells built under the other proposal.

So the point is you spend a third less and do three or four times more. That relates to what the Senator from Delaware said earlier. It is time for us to do things smarter. You do not have to spend more money to do more or to accomplish the right result. You can, it seems to us, if you do this more appropriately, provide far more prison space

for hard-core criminals at far less cost than we have thought about previously if we simply do the right thing. That is why I am impressed with this approach. We can really accomplish something; 150,000 cells available for hard-core criminals is not a small-time solution. That deals with this in a big way.

Mr. BIDEN. I wish to make clear to the Senator that is our goal, but the $2 billion does not buy 150,000 vacancies. It buys us 70,000 vacancies. I would be prepared to do that plus another 15,000 prison cells like the other team wants to build. If we doubled that money, we could get all 160,000 of these nonviolent, first-time offenders who are taking up hard-core space.

But the Senator is absolutely correct in the thrust of what he has said.

Again, one of the things that I know the Senator agrees with and that I wish to be real certain about—I have been doing this for a long time. We come to the Senate. We all get assigned certain responsibilities, minority and majority, and we allegedly are supposed to become, if not experts—like the old joke, an expert is anybody from out of town with a briefcase. Well, we do not get to be experts, but hopefully we get relatively well informed. We all get different assignments to be the person to whom our side tends to look for some of the detailed data when making up their minds. One of the things that I have tried to do in my job assigned to me by the Democrats, being the chairman of the Judiciary Committee, is to make sure that I do not overpromise anything, to make sure that whatever I am saying about the crime bill at the time that I am speaking to it is as accurate as I know it can be.

So that is the only reason I say in truth-in-advertising the $2 billion I have in the bill would get us 70,000 boot camp spaces and about 15,000 hard-core prison spaces. You can play with those numbers. If the State did not want to use hard core space you can bump it up to 81,000. I do not know the exact number. But that is the point. I think if in fact this works, as I believe it will and I think the Senator from North Dakota believes it will, we can come back here and do it all. We can do more of this.

One last point. I know the Senator and I also want to give credit where credit is due. The Senator from North Dakota and I spoke, and he indicated to me that he thought we were not even doing enough in the boot camp area. In the first bill I introduced on this because I did not think I could get the support to spend more money that I now have, since the chairman of the Appropriations Committee and the chairman of the Budget Committee have now signed on to in a major way to fund this, I only had $300 million in for these boot camps. I wanted to make the record clear. The Senator from North Dakota said that is not good enough. He wanted to see a lot more. So he deserves the credit for this being up significantly.

I also know there is one other thing he has a grave concern about, and I know it is his amendment. I hope we can work it out. That is that he is worried about the States, notwithstanding the fact that they will be able to have freed up spaces for violent criminals, that he wants to make sure those violent criminals serve their time; serve 85 percent of their time or more, like they do in the Federal system.

So I hope when his amendment is in order, when he decides to introduce it, that we can accommodate that. I want to give credit where it is due. This is really his baby. I appreciate it.

Mr. DORGAN. Madam President, I do not want to test the Senator's patience, but if he would yield for one additional question, I want to illustrate why I talk about 100 to 150,000 violent criminals. If we construct at Fort Dix the opportunity for $20 million to incarcerate 3,000 people, taking an abandoned military facility, if you do $700 million and the Justice Department or whomever is constructing these, could construct it as reasonably—and I should say that my friend from Ohio is going to join me in the amendment, Senator GLENN, he believes as, the chairman indicated a while ago, you can construct these camps with Quonset huts and other facilities.

We have had people living in those for a long time in bases and so on around the world. You can construct these in a reasonably effective way. If you could replicate the Fort Dix model, incarcerate 3,000 people in a facility that costs $20 million to construct, if you spend $700 million you are talking about 105,000 people. That is 105,000 people that can go from a prison cell to an alternative incarceration facility and you open up 105,000 cells. That is only $700 million. We can do it with $1 billion. Then you are up to a substantially higher number.

That is the point I was trying to make.

Mr. BIDEN. I think the point the Senator makes is absolutely accurate. My numbers that I have been using have been very conservative numbers. I have wanted to make sure that no one would be able to say to the Senator from Delaware that no, you are inflating these numbers. I have taken the most expensive end of the boot camp cost, and then divided the number of people I could get into them.

The Senator from North Dakota is absolutely right. And with a little bit of imagination you can even get that cost down further.

The irony here is some on this floor have characterized our boot camp proposal as somehow a less severe version of what should be done with criminals. The truth is when I first got here, and the Senator from North Dakota first got here, after having served in the House, if we had ever stood up and said we want to put up Quonset huts, they would have said, "Oh, my Lord. You reactionary people. What are you doing putting them out in quonset huts? You should have them in these expensive cellsthat meet all OSHA standards, and so on."

The truth of the matter is we are not talking about sending these folks to Boys Town. We are not talking about sending these folks to some lovely arrangement whereby they go to summer camp. We are talking about putting folks where they do not want to go, do not want to be, not going to like, going to have to work like the devil when they are there, and have to undergo education while they are there, including drug treatment if the States so choose while they are there, and increasing the prospect that they will not be repeaters significantly greater than they would have if they had stayed in the prison.

Mr. DORGAN. The main concern, Madam President, is finding space to put violent people. That is the main issue here. We had a lawsuit a while back in which a prisoner was suing the authorities that were imprisoning him because he was not getting variety tier cable television; not regular cable, he needed variety tier because he wanted to watch hockey. He did not get variety tier in jail; therefore, a lawsuit. The judge had the good sense to throw the lawsuit out.

The fact is people sent to jail, especially violent criminals, deserve it seems to me to be incarcerated for the period of time the judge intended that person to be incarcerated. We do not need to reward them with good time in order to find out how we can dangle incentives in front of them to make them behave while in prison so they can manage them better. The question is if they manage them better in prison on good time, who can manage them at midnight on the city street just before they are about to perpetrate the next attack or commit the next criminal act?

There is no management when they are turned back out on the street early. That is the purpose of all of this. It deals with security, victims, and safety. It is not trying to take advantage of anybody. It is just saying if you commit a violent crime in this country, if you are a violent criminal, and most of the violent acts are committed by the same people, 6 percent of the criminals commit about two-thirds of the violent crime in the country, if you are one of those, if you are a career criminal committing violent acts, we are going to find you, lock you up, and keep you locked up.

That needs to be the message of this crime bill. Then we need to find as best we can what are all the root causes, and how can we work on all of them at

once to try to deal with the other cultural and related issues that help create this.

But if we do not do something to make space available to lock people up who commit violent crimes, then we will have failed.

That is why what the chairman has brought to the floor, Senator BIDEN this year, is refreshing. This is different. If anybody says this is the same old thing, they have not read the bill. This is different. It is an alternative. It really does deal with violent criminals in a very productive and a very creative way.

I would say to the chairman that I think those who argue that this is sort of the same old debate just have not read the legislation. I hope in the coming hours and the coming day or two they will take the time to read what the chairman is proposing, and what others of us will propose with amendments.

I thank the chairman.

Mr. BIDEN. I thank the Senator.

Madam President, I see my friend from Florida is on the floor. I will yield to him in about 60 seconds.

Put it another way about boot camps, even if the boot camps did not provide a better chance at reducing recidivism, even if there were circumstances that made sense from a cost standpoint, even if there were not alternatives that made sense from the standpoint of the nature of the punishment that should be attached to a nonviolent crime, they make sense and should be built for one overwhelming reason. They free up hard-core prison space so violent criminals who are now not serving their full terms or serving any term will have a place in a space that the Governor and the mayor and the prosecutor in the State can put them behind bars, and have them serve their time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MACK. Madam President, I thank the distinguished chairman for yielding.

As we debate crime and our suggestions of what to do in response to the crime problem, I think it is important to understand that liberals and conservatives approach the problem from fundamentally two very different perspectives.

I know in some respects it must be confusing to people as they listen to this debate because it seems like they are hearing the same thing on each side of the aisle. And it appears that we are all headed toward the same objective and that we are merely arguing about the means to get there.

I would say again it is different from that. We each have a different approach to solving the crime problem.

Liberals believe crime is a result of the failure of society. That the actions of criminals are not their fault, but rather society's. And since society has failed, then it is society's obligation to rehabilitate these criminals.

Conservatives believe that crime is a result of the failure of the individual, that the individual chose to act, and the individual must accept the consequences of his or her action. Therefore, conservatives believe that punishment is the proper consequence. That is not to say that conservatives never believe in rehabilitation or that liberals never believe in punishment; rather, we approach the problem of crime from these two very different points of view.

When liberals look at a crime, they conclude that the real victim is the criminal, that the criminal is the victim of society. When conservatives look at crime, they see the victim as the one who has been robbed, raped, or murdered. The reason liberals put so much emphasis on rehabilitation is that they see the criminal as the true victim. That liberal philosophy has brought us to where we are today.

I have a blowup of the Miami Herald paper in which the headline is: "Suspect in Policewoman's Slaying Was Released Early From Prison Twice." I will get back to that particular crime in a couple of moments. I want to discuss a couple of others first.

As you probably are aware, there are many people around this country—and unfortunately around the world—that have looked at the crime problems that we have experienced in Florida. It has been highlighted; they have been very visible. The crimes that have been very visible and have received lots of attention, in fact, are symptomatic of what has happened in the rest of our country, not just in Miami, FL, but what has happened in America in rural and urban settings, as well.

I will pick several of these high-visibility crimes to make some points; for example, the murder of Michael Jordan's father. Like in the case of the slain British tourist in north Florida, James Jordan, the father of Michael Jordan, was innocently resting in his car on the roadside when he was murdered. The accused are two 18-year-olds with prior criminal records. One of the accused was paroled 2 months before the murder, after serving 2 years of a 6-year State prison sentence for assault with a deadly weapon and armed robbery. The prior assault involved the accused attacking a friend with an ax causing permanent brain damage to the victim. Although sentenced for 6 years as an adult, he only served 2 years.

The other suspect involved in Jordan's murder was indicted a year ago on armed robbery, accused of smashing a 61-year-old store clerk's head with a cinderblock. At the time of Jordan's murder, he was free on bond.

The point is: If they had served their time, Michael Jordan's father would be alive today.

There was a recent murder in Miami of a German tourist shot to death next to his pregnant wife after a van purposely rammed the rear of his rental car.

One of the individuals arrested for the shocking crime had been arrested five times since he was 17—he is now 19—five times in the last 2 years, on charges of aggravated assault, burglary, and grand larceny. Four of the offenses were handled by juvenile authorities and produced no jail time.

The second individual had previously been arrested for shoplifting while carrying a concealed weapon—the other person involved in this crime—but the weapons charge was dropped, leaving a misdemeanor theft charge that kept her jailed only until Saturday—a couple of days before the murder of the German tourist.

Again, if we had followed the concept of pursuing the idea of punishment, those individuals would have been in jail and that German tourist would be alive today.

There was a slaying of a British tourist by habitual youth criminals just outside of Tallahassee. Two British tourists were napping at a quiet rest stop when two youths tapped on their car window attempting to rob them. The British couple tried to flee, but their car was blocked. The youths then shot the couple. What began as a quiet rest ended in the bloody death of a male tourist and injury to his female companion. Four youths were arrested for this horrible crime, ranging in age from 13 to 17. Three of the youths had prior criminal records.

In another high-visibility crime, Barbara Jensen, back in April, was murdered in front of her mother and two small children after straying off an interstate highway into a northeast Miami neighborhood. She was brutally beaten and run over during the robbery attempt. Both men accused of the crime had prior criminal records, ranging from cocaine possession to kidnapping and armed robbery. One of the individuals who committed this vicious crime was on probation at the time.

With regard to the blowup of the Miami Herald article, I want to go through some of the record of this individual who was apprehended and arrested for this crime.

The first offense, November 1989, cocaine possession and obstructing police. Probation.

Second, January 18, 1991, possession of cocaine and marijuana and carrying a concealed gun. Sentence, 1 year minus 1 day. Released April 18, 1991, after successfully completing a counseling program.

Third, September 3, 1991, auto theft, sentence 1 year and 1 day, released December 10, 1991.

Fourth, May 26, 1993, car break-ins, sentence 1 year and a day. Released August 24, 1993.

For his two State prison sentences of 2 years and 2 days, on the first offense, 3 months and 7 days was what was served. On the second, it was 2 days short of 3 months; released early due to prison population. If he had served his full sentence, detective Evelyn Gort would be alive today.

My point is probably obvious for going through all of that. It was to make the point that we must take those individuals who are violent, repeat criminals, off the streets of America. I honestly do not believe that the alternative that has been proposed by Senator BIDEN will do that. I believe that there is way too much emphasis on this concept of counseling, aftercare, and drug treatment. There are evil people who are on our streets, and they need to be removed from our streets and kept off of our streets.

The amendment that was offered by Senator HATCH forges a Federal-State alliance to help States deal with their violent crime problems. It creates regional prisons that will allow us to lock up violent offenders for the duration of what will be a very long sentence. That is good news for the citizens and bad news for the criminals, and that is what Americans want.

We are serious enough about this program to cut $6 billion from the Federal Government elsewhere, in order to spend it on prisons to house these vicious things.

This amendment will open the door to a safer America, a place where criminals who rape, rob, or murder, will be stiffly sentenced and will serve every day of the sentence they are given, a place where we can rely upon our criminal justice system to dispense true justice, and a place which favors innocent victims over brutal thugs.

If this legislation is passed, gone will be the days of the revolving door where vicious criminals are back out on the street within a matter of months of their third or fourth offense.

Each time, their crimes strike a little closer to home, and each time, they wound us all. To make matters more disturbing, institutional disregard for the rights of the innocent pours salt in those wounds. A careless parole board, an overly sympathetic judge, an unsupervised halfway house—they all commit the same wrong, and that is favoring expedience over safety. They just keep letting these criminals go. The revolving door is just spinning out of control.

Every time we hear one of these terrible crimes, it is followed by a listing of the thug's criminal record—and every time, the criminal has a record as long as my arm. Inevitably, the culprit was in prison and released early, on parole or simply out on bond—only to commit another crime, maybe a murder, and another crime, maybe a carjacking, and another crime, maybe a rape. This madness must stop.

Americans are sick and tired of a criminal justice system that is not working. They want to know why a murderer is on the streets and not in jail. They want to be sure that the criminals who rob people at gunpoint in their driveways, actually do their time.

And in fact, Americans want the criminals to serve every single day of that sentence—no parole, no leniency, and no time off because of overcrowding. They want these people punished. They believe that too much emphasis is on rehabilitation and not enough on punishment.

Americans want to be certain that people who are likely to go out and hurt somebody while they are awaiting trial are kept locked up and off the streets. They also want some assurance that the parole board won't release a bunch of vicious criminals because they have no better place to put them—Americans say we have had enough and we want some answers.

Here is our answer: A Federal/State criminal justice partnership. It is both simple and innovative. We in the Federal Government want to form an alliance with the States to actually do something, in a tangible way, about violent crime. This legislation offers the incentive of much more prison space to States dedicated to housing violent and repeat offenders, as well as illegal aliens who commit serious crimes.

In exchange, the States must pass real criminal justice reform. We will authorize $6 billion over 5 years for a regional prison system, devoted almost entirely to housing these State prisoners. We are also authorizing grants for the construction and operation of new State prisons, which can include boot camps for nonviolent juvenile offenders.

In exchange for our fiscal commitment, any State wishing to participate must do the following:

First, enact truth-in-sentencing laws, equal in effect to what is present in the Federal system, so that parole is eliminated and Americans will know that the criminal will serve every single day of that sentence. Criminals will be confronted with a true deterrent for a change—a full sentence.

Second, States must pass tough bail laws that will keep criminals likely to commit violent crimes in jail pending the outcome of their trial.

Third, States must ensure that criminals using guns, sex offenders, violent repeat offenders, and child abuse offenders, all go to jail for a long time, and again, at least as long as what is provided for in the Federal system.

Fourth, finally, the States must be sure to include the victim at all stages of the proceeding, so they are actually a part of the criminal process instead of a footnote or an afterthought.

Taking these steps is tough medicine for some States. But, the time has come to focus our resources on protecting innocent people by keeping violent offenders off our streets.

We can spend hundreds of millions of dollars on more cops and it won't make a bit of difference if we have no place to put the people they arrest. While this legislation is a big step for the States to take, they need not take it alone. We are all in this together, and those of us that are serious about dealing with violent crime should step up to the plate and vote to enact this program.

Again, I am very grateful to all those who have helped formulate this program, especially Congressman BILL MCCOLLUM and my colleagues Senator HATCH and Senator DOLE and I am confident we can pass this amendment with bipartisan support.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Madam President, I thank my friend from Florida for his comments. I found his explanation of his amendment interesting.

I particularly found most interesting the point that liberals and conservatives have a different view on crime.

Maybe at one time that was true. I must admit when I first got here in 1973 and I introduced a bill that called for flat-time sentencing, that, as you know, ended up being the Sentencing Commission, although the real work on that had been done by an unholy alliance of Senators KENNEDY and MCCLELLAN who had really done spade work on that. I was just one of the fellows who came along after the fact.

It is true some of the more what I refer to as the sixties liberals thought that I had I used to be referred to as a iconoclast, which I thought was always fascinating, but at any rate the truth of the matter is for the past 10 years I have not seen any of that. Nothing in this talks about failure of society. This is just hard-nosed stuff. I think we should talk about at some point the failures.

Maybe I would define the difference between the approach of the liberals and conservatives to this issue is that conservatives do not want to take a look at the root cause of these problems; therefore, they are going to live forever with the impact. They do not look at the systemic cause; they just look at the impact, the systemic problem and try to deal with it at the other end. That is one way to do it.

And liberals, that is true, used to be the first to say before if you do not deal with the systemic problem you do not deal with any of it.

What we have been saying for the last 10 years and what I say today is we

should do what we did in the Federal system. We should say: Hey, look, we have a problem. It is unsafe for my mom to walk out into the parking lot of the shopping center in my middle-class neighborhood, and I have to do something to change that. I do not care whether or not the person who attacks her is mentally ill, whether or not they are the product of a broken home and a terrible environment, or whether or not they are a sociopath. It does not matter. The effect on my mom is the same. She gets hurt.

So, I want to make sure we do something about taking that person off the street.

This bill attempts to do that, not only take them off the street by putting more cops on the street to get them off the street but once we get them off the street use our head as to what we are going to do with them. It used to be when I first got here we used to say, well, we put people in jail based upon how long it will take them to be rehabilitated. As I said yesterday, we found out although people do get rehabilitated we do not know when it happens and we do not know why it happens. So we should not rest the system of incarceration based upon a notion that we cannot identify even when it occurs.

That is why I was the author of legislation to not make sentences based upon the time it took to rehabilitate because that turned into a way for conservative judges to put black folks in jail and keep white folks out of jail for the same crime. They always could look at that white middle-class guy and say he can be rehabilitated in 2 years; I can tell; or maybe he can be rehabilitated just by making sure he gets probation and goes home to his daddy. And they look at this black kid who did the same thing and say: Oh, I do not think that kid can be rehabilitated. That kid may need 10 years to get rehabilitated.

That is the other reason we changed the law.

So I would like to think of it to end this whole conservative-liberal malarkey and let us agree we are going to do two things: Deal with the problem as it exists on the streets now, and try to take back the streets, but understand that will not be enough. Once we do that, let us try to figure out what we can do to keep the kid from becoming a criminal.

There is an overwhelming number of studies, not done by liberals, done by hard-core, tough cops. As a consequence on the streets, as a former Federal prosecutor, I say to my friend from Illinois, the Presiding Officer, and you ask them whether or not they would rather have more cops or drug treatment for these first-time offenders, they will tell you they want drug treatment because they know what happens. If you do not treat them when you incarcerate them, or give them no alternative but treatment, they are back on the street again with these folks.

So I think we have to do both. Again, I am raising this as one piece of a five-part plan we Democrats have and some Republicans have to deal with violence in America, just one piece.

This is the cops-and-robbers piece. This is cops, prisons, hard-core, nuts and bolts, stuff. Let us pass it.

Then we will get to deal with guns, the things that cause big problems, and deal with the problem of violence against women, rape, and abuse of women in our society. Then we can deal with drugs. We have a continuum we have to deal with here. This will not solve it.

I hope we stop the liberal-conservative malarkey, get more cops on the street, free up more hard-core prison space, and get on with the business of making it safe for my mom, your mom, and everyone's mom. And as the Senator from Texas says, "No one is going to take my momma's gun." I do not want to take his momma's gun or blame him. We want to make it safe, where moms, dads, aunts, uncles, brothers, and sisters can be a little safer when they walk out of a store after making a purchase in broad daylight than they are today. That is what this is about.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Madam President, I support the pending Byrd amendment. The amendment which I am pleased to cosponsor sets aside in a trust fund $12 billion to be used solely on the crime prevention programs and activities authorized in the underlying legislation.

This legislation authorizes many provisions which will help the Federal Government, the States, and local communities combat crime. But these provisions will do no good if they are authorized and not actually funded. The budget bill passed earlier this year makes that a difficult task.

For the 5 years authorized in the budget and in this bill, discretionary spending is frozen even at 1994 levels. With many valuable programs competing for a shrinking pot of money, it could be difficult to secure full funding for these new anticrime initiatives, despite the compelling need. This amendment ensures that the anticrime initiatives authorized in this bill will, in fact, be funded. It takes savings achieved from the personnel cuts proposed by the President and previously approved on other legislation by the Senate and puts $12 billion of those savings into a violent crime reduction trust fund. Those funds are then available for use on the programs authorized in the underlying crime bill that is now before us. In effect, we will reduce the number of Federal employees and increase the number of police on the streets of America.

The Congressional Budget Office has estimated that the reduction in the Federal work force will yield the savings necessary to fund the $12 billion trust fund, and the spending caps which fund other discretionary programs will be reduced by the same amount.

Crime in America is a serious problem. If we are serious about combating it, we must provide sufficient resources to the effort, not just authorizing programs but funding them as well. This amendment sets aside $12 billion to fund the effort.

I urge my colleagues to support the amendment.

Who yields time?

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MITCHELL. Madam President, I hope that we could get a vote on this amendment.

I am advised we have one other Senator on the way. But I hope that, if any Senator wants to address this amendment, he or she will do so, because it is my hope that we can proceed to vote on the amendment and begin to process other amendments as soon as possible on this important bill.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mrs. FEINSTEIN. Madam President, I rise to support the leader's amendment which would fully fund the crime bill over 5 years, I think funded in a way that many people believe is necessary.

Where people want their government, it is my belief, is on the local level. They want police to stop crime. They want firefighters to put out fires. They want transportation employees to move them. They want it on the local level. And what has been increasingly clear to me is that the more remote the bureaucracy becomes or the bigger it becomes, the more difficult it is to control.

Essentially, what this amendment does is say to each of the department heads in the Federal Government: You are going to, over this time, take a cut

in personnel and we are going to use that money to put police on the front lines, to build the boot camps, to build the prisons that we need to house the criminals, and do something about crime in this country.

Madam President, I cannot tell you how serious the crime issue is in the largest State in the Union. Whether you are talking about Sacramento, or Fresno, or San Francisco, or San Jose, or Los Angeles, or San Diego, or Orange County, people's number one concern is their personal security.

Our ability to get police directly on the streets of our cities is going to impact that security. I know that. I know that if you can get a squad car to an A-priority call that you can make a good arrest much more likely than if you get that car there in 15 minutes. If you get it there in 2 minutes, you have a chance of making the arrest, you have a chance that evidence is not destroyed, you have a much better chance that you get your witnesses and, therefore, that all adds up to a better conviction. We need these police.

Los Angeles has the highest citizen per police ratio in America.

Last night, I was talking to a citizen from Los Angeles. He pointed out that there was a large employer with 7,000 employees who was going to move out of the city because every truck that left his factory had to have an armed guard. You cannot do business this way in America.

What the full funding of this amendment means is that it is not pie in the sky. It means that it is going to happen and it is going to happen in a way that not only winds down the Federal bureaucracy, but sees to it that the police and the boot camps and the cadet program—the prevention programs that are in this crime bill—are truly funded.

I think it is a real breakthrough. I congratulate the majority leader. I thank the distinguished chairman of the Appropriations Committee for effecting this agreement. It is major in scope. It puts there—it adds the funding mechanism to the crime bill.

The PRESIDING OFFICER. Who yields time?

The minority leader, the Senator from Kansas.

Mr. DOLE. Madam President, let me say I think, first of all, Senator DOMENICI is taking a look at the amendment offered by the distinguished President pro tempore, Senator BYRD. He will have some information on that soon. But I do think we really have to pay for these things. I am not certain we are going to get any savings out of a national performance review, but we might. It might be a start. I think that is one big difference between the Republican approaches and Democratic ones. We paid for ours. If Senator BYRD has a better idea, that is fine with me, and as soon as we have time to analyze it we will be happy to proceed to a vote on it.

I think sometimes the best ideas are the easiest ones to understand.

Here's a good example: A convicted violent criminal should serve the full term of this prison sentence. Not one-half or two-thirds of the sentence, but the full sentence. No exceptions and no parole.

This idea, known as truth-in-sentencing, was first embraced by the Federal Government during the 1980's when it instituted pretrial detention, and eliminated parole and probation. The basic principle underlying these reforms is that incarceration works, that a criminal kept behind bars will not terrorize a single law-abiding citizen.

Under today's Federal system, a violent felon, once apprehended, can remain in prison from the moment of arrest until the full sentence has been served.

Unfortunately, truth-in-sentencing is one area where the States have not followed the Federal Government's lead. They have in a lot of areas but not in this area—but they ought to follow our lead. At the State level, for example, a typical murderer is sentenced to 15 years, but serves only 5½ years. A typical rapist is sentenced to 8 years, but serves only 3 years. A typical mugger is sentence to 6 years, but serves just slightly more than 2 years. The list goes on and on and with tragic consequences. People are back on the street committing more rapes, more murders—whatever it may be.

Take the case of Walter McFadden. McFadden was convicted in Texas of two rapes and sentenced to two 15-year sentences. Paroled 5 years later, he kidnaped and raped a third victim. McFadden then served 4 years of his new 15-year sentence. Less than a year after being paroled again, he raped and strangled an 18-year-old honor student.

There are thousands of other similarly tragic stories, as vicious killers enter our criminal justice system, only to slide through its revolving doors—legally. They are back on the streets, committing these violent crimes and people are saying, why do you not do something about it? I hope we can do something about it.

The problems associated with State prison overcrowding have made this revolving door spin even faster and faster. According to a 1989 survey, nearly one-fourth of the 4,000 prisoners released in Florida that year because of overcrowding went on to commit new crimes during the very period in which they otherwise would have been in prison serving out their full sentences. That is about 25 percent; we could have avoided 25 percent of those crimes committed. These repeat offenders wreacked havoc on the law-abiding citizens of Florida, committing 2,180 new crimes, including murders, armed robberies, and rapes. All that could have been avoided had they kept these people in prison under a truth-in-sentencing law.

With State prisons now operating at 123 percent of capacity, other States are resorting to early-release programs patterned after the Florida example.

Should we try to put more cops on the street? Maybe. "Of course," some would say.

"Maybe," others would say because by the time you spread out 100,000 policemen, 100,000 cops in the United States of America—I am not certain whether any are going to get to the rural areas, and if so it would not be very many. How many are going to get to each of the urban areas?

But as Georgia's Democratic attorney general, Michael Bowers, has explained:

> All of the police officers in the world aren't going to make a difference on the crime situation until you provide a place to put the criminals. Unless you do that, this is a waste of time.

So you hire more policemen, sentence more criminals, hire more prosecutors and they are back on the streets because you do not have a place to keep them.

Attorney general Bowers is right. That is why I urge my colleagues to support the amendment offered by my distinguished colleagues, Senator HATCH and Senator MACK.

This amendment proposes to spend—and pay for—$6 billion to help build and operate new prisons; $3 billion of this total would be used to provide direct grants to the States.

The remaining $3 billion would be devoted to building and operating 10 new regional prisons at the Federal level.

We are not just going to build these prisons so the States will have a new dumping ground and eliminate some costs for the States. They are not going to be able to send any prisoners there unless they adopt truth-in-sentencing reform.

Kansas would be allowed to send its most violent criminals to these regional prisons, but only if it keeps up its end of the bargain by adopting the truth-in-sentencing reform. No reform, no prison space.

There are those who will say that the Government does not need to build more prisons, that the best way to find more prison space is to release all those nonviolent, nonrepeat offenders who are taking up scarce prison beds and who could better serve their sentences elsewhere. I wish this solution would work, but it will not because it ignores the realities of the State prison population.

According to a 1991 study conducted by the Justice Department's Bureau of Justice Statistics, 94 percent of the inmates in State prison either had been convicted of a violent crime or had a

previous sentence to probation or incarceration. In other words, only 6 percent of the total State prison population are nonviolent offenders with no prior sentence. The bottom line is that the overwhelming majority of those in prison have committed horrible crimes, and have done so repeatedly.

Alternatives to prison, like boot camps, halfway houses, and drug treatment centers may have their merits, but when it comes to the security of the law-abiding public, they are no substitute for prisons. In fact, when introducing the administration's anticrime plan, my colleague, Senator JOE BIDEN, made this curious pitch in defense of alternative sanctions.

A criminal, a cocaine addict, and a heroin addict commit roughly 175 crimes per year. You know if that addict is in treatment for a year, even if (he) never get(s) cured, the number of crimes (he) commit(s) while in treatment drops by about half. They would drop altogether if he were in prison. He would not commit any. That is what the American people are suggesting.

I think we should have gotten some little message out of what happened on Tuesday. You can turn a blind eye to election returns if you want. Any survey that anybody takes, I do not care, politics, business, whatever, No. 1 is crime—it is in Chicago, it is in rural Kansas, it is everywhere you go— when people are prisoners in their own home, they cannot leave; they are afraid to get out on the streets after dark; they are even afraid to get out on the streets during the daytime.

It does not happen just in urban areas, it happens in rural areas. Drive-by shootings, things we had not heard about in places like Wichita, KS, are occurring now sort of commonplace. We have gangs with 11, 12, 13 teenagers in Kansas—not just in California, but in States like Kansas where we did not think we had the problem.

There are not any easy answers. We are being told in this bill it is not going to solve all the problems, we should not try to oversell it. It is going to be a short-term help, maybe. Maybe a tourniquet, maybe bigger than a Band-Aid, but it is not going to solve the problem. This is short term. The long term gets back to family, church, a lot of other things—schools, a lot of other things we have to address—job opportunities. You cannot really fault some young people who grow up without parents, any jobs, any opportunities, never knowing anything but crime.

So we have some long-term problems that have to be dealt with when it comes to young people. But I am talking here about hardened criminals who commit violent crimes. They ought to be in jail. If they are sentenced to 10 years, it ought to be 10 years; it should not be 2½ years or 3 years or 4 years and it ought to be paid for. We pay for it with real money in the Hatch amendment. This is real. It is going to be paid for.

We can adopt all the amendments we want and make all the great speeches, but if we do not pay for it, it is never going to happen. We are not going to build any more prisons.

I am not certain whether the amendment of the distinguished Senator from West Virginia sets aside money for prisons or not. It goes into a violent crime trust fund. Who is going to decide how that is allocated and how much will be spent for prisons? I think I read the amendment fairly carefully.

So there are some questions we need to answer if that is the route we want to go. But we do pay for ours. It is paid for.

I think everybody in this body is willing to take the next step. I know the distinguished Senator from North Dakota is because he has had the experience himself and his family members have had the experience, so he is prepared and we are prepared. We come from small States but we are not exempt in North Dakota or Kansas from crime, criminal activities or drugs. So I think you will find a lot of bipartisan support.

We have to get tough in the right sense—not mean, but tough. We have to mean what we say. So if we pass a law, we know we can go out and say, looking somebody in the eye and say we have done something, and if somebody commits a crime, if somebody is going to go to prison, they are going to serve their time. My view is that certainly will give a lot of assurance to a lot of people who are having a lot of thoughts about criminal activity in America today.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, first I want to commend Senator BIDEN for putting together a serious crime bill under very difficult circumstances. I do not think that perhaps many of our viewers understand the very difficult budget limitations that Senator BIDEN is forced to operate under.

Let me just say in working with the chairman of the Judiciary Committee that I have come to respect his real commitment to doing something serious about crime. I have also come to share his frustration, because as he has pointed out to me, it is difficult to pass legislation on this subject through both Houses of Congress, get the President's signature and stay within the limitations of the Budget Act.

Let me just say that I, as one Member of this body, who I think is known among my colleagues and certainly among my constituents as a deficit hawk who is very committed to reducing the budget deficit in this country, believe that the crime wave in this country is so serious, so threatening to the security of America that I would be prepared to support a Presidential declaration of an emergency so we could go beyond the restrictions of the Budget Act to do what needs to be done.

I believe the No. 1 threat to the security of this country is the unprecedented increase in violent crime that is being seen in every part of America. We all understand what is happening in the major cities. We all understand what is happening in the population centers.

I come from the State of North Dakota. We have the lowest crime rate of any State in the Nation and the lowest, by far. Yet, we are seeing in North Dakota increased incidents of kids coming to school with guns. In our wildest imaginations when I was growing up, no one ever would have thought about bringing a gun to school. They are doing it now, in Fargo, ND, in Grand Forks, ND, in Bismarck, ND.

Madam President, we just had an incident in my hometown of Bismarck, ND, a town of about 40,000 people, in which a grandmother who had been in town for meetings was abducted from a hotel parking lot. That woman, who was getting ready to return to her family, went out to get in her car. A couple got her into her car, they locked her in her trunk, and for 4 days they took her across the country heading West, using her cash, using her credit cards, driving her car with her in the trunk. Ultimately, it ended in tragedy with her being murdered in Nevada.

People are no longer safe in Bismarck, ND, where I grew up in such a secure environment—we never locked the doors to our house. When I finally left the apartment in a building I owned, I had to go to my brother to get a key because I did not have a key to my own apartment. I never locked my apartment door in Bismarck, ND.

Something has changed. It has changed dramatically and it has changed for the worst. It is affecting Bismarck, ND; it is affecting Boston, MA; it is affecting Los Angeles, Chicago, and, yes, it is affecting our Nation's Capital.

I prepared this collage—more accurately, my staff prepared this collage, and they did a good job. It shows some of the headlines from the Washington Post in the last several weeks.

These headlines scream out at us about a societal nightmare. Here is a headline: "It's Like War." This is the Nation's Capital and they are talking about killings day after day, night after night; shootings, day after day, night after night; rapes, day after day, night after night; burglary, assault.

"Mother Waits for Answers, Family's Struggles Seems To Mirror the District's." A little child, "Wounded for a Lifetime." In fact, this child died.

"The End of Business as Usual, Brutal Robberies Shatter Merchants' Universe."

Here is a story about the Mayor of the District seeking to call out the National Guard because the situation is so out of control in the Nation's Capital.

Here is a story that ran just recently: "Of 1,286 Slaying Cases," in the District, "1 in 4 Ends in Conviction." One in four ends in conviction.

"Halfway to Freedom, D.C. Inmates Escape." The subhead line is: "One-fourth Flee Transitional Houses."

One of these people who fled a transitional house attacked my wife eight blocks from where we are meeting today on the steps of our home. A fellow with a .45 automatic put a gun to my wife's head and said, "We're leaving in your car." Thank God my wife had the presence of mind to say to him: "I locked my keys in the car," because that befuddled him. That put him off his game plan.

And so he dragged her for two blocks with a .45 automatic at her head threatening to kill her repeatedly until they came to a busy intersection and she was able to elude him, to get away.

As I saw my wife being dragged down the street, I called 911 in the District of Columbia and I got a busy signal—I got a busy signal.

I am ready, as one Member of this body, to do something very serious about crime. I think if we are honest with ourselves, we know that requires many combined strategies. Some say we have to get tough, and they are right. We have to get tough. People who commit violence need to be caught, need to be punished, need to be put away, and need to be separated from the rest of us. Society owes that to the vast majority of people who are not violent—society owes that to the vast majority of people who are not violent.

That is a prerequisite for any kind of civil order. That is a prerequisite for any kind of civilized society. And if society fails in that most basic responsibility, then society will soon find a backlash that will strip away the veneer of civilization and of basic decency because people will not stand for a situation in which they are prisoners in their own homes. They will not stand for it.

Very recently, a headline in the Washington Post read, "I'm Scared To Come Outside."

"I'm Scared To Come Outside." They were quoting an 8-year-old girl who was afraid to leave her apartment. She said:

> I wish to come outside and play and just run around but I'm scared to come outside. I can't go to the park. I just stay in the house.

Something is radically wrong when an 8-year-old child is afraid to go outside, is afraid to go to the park, and has to just stay inside.

Too many Americans share that feeling. They are afraid to go outside. Freedom in many places of America means freedom to walk only in the daylight hours, and in some places not even that is safe.

President Clinton referred to the children of the Middle East as having, "A great yearning for the quiet miracle of a normal life."

Madam President, we do not have to go to the Middle East to find children who have a great yearning for the quiet miracle of a normal life. We can go four blocks from this Chamber and find children who have a great yearning for the miracle of a normal life. As I said in the Chamber yesterday, we recently had a 12-year-old child raped at 7:45 in the morning, four blocks from this Chamber. At 7:45 in the morning, four blocks from this Chamber, a 12-year old was raped.

Madam President, something has to be done. There must be a response.

We do not need to look far to see the specific areas where the system is breaking down. Last month, Michael Wright, age 22, was charged with first-degree murder in the slaying of a Korean businessman in Washington, DC. This young man had previously been charged with assault with intent to rob while armed and was released while waiting for trial. He was arrested again in July 1988 on assault charges and was ordered confined until trial. He pled guilty to assault with a deadly weapon and was sent to a halfway house for young offenders. He left that halfway house after a month to get a birth certificate. He did not return. He was caught 19 days later selling cocaine and pled guilty to this charge and the assault charge. He was sentenced to 2 to 6 years in prison in August 1989, and on December 18, 1992, after serving only one-half of that sentence, he was moved to a halfway house that he left on January 15, never to return.

Madam President, take the case of Kirby Chastine, 23, who was recently convicted in Florida of killing Marc Nadeau, a Canadian tourist who was visiting his father in Florida. In 1992, Nadeau was shot twice in the head after returning from a trip to the corner grocery store. Since turning 18, Kirby Chastine has been convicted of selling and possessing cocaine, robbery, and battery. The longest jail sentence he served was 7 months. This was a repeat offender who should not have been on the streets.

Last month, in Washington, DC, a District of Columbia man was convicted in the September 1992 sexual assault and beating death of congressional aide Abbey McCloskey in a Capitol Hill alley. She was robbed, sodomized, beaten, and left unconscious under the parked car of one of my legislative aides. Two of my staffers were witnesses to this crime. In fact, they were the chief witnesses against the perpetrator. The man was eventually convicted of the crime. He had previously served 7 years of a 4-to-12-year prison term for assaulting and robbing two women in 1984. At the time of the crime, he was living in a halfway house near the crime scene. Thankfully, that man has now been sentenced to life in prison without parole, the first time such a penalty has been imposed in D.C. Superior Court.

I could go on and on and on with example after example from around this country of criminals who are out early; criminals who have been given parole, preparole, criminals who have a record of violent crime as long as your arm who are out to commit crime again. We have an obligation to stop this.

Madam President, this chart shows the increase in violent crimes from 1988 to 1992 in this country. You can see we have seen nearly a 25 percent increase in just that period of time in violent crime.

The examples that I have cited are not, unfortunately, the exception. They are beginning to look more and more like the rule.

We now have a revolving door in the prison system of America. People are sentenced but they do not serve anywhere near the sentence that was imposed. They are released and able to commit crime once again.

I just talked to a Federal judge, a Federal judge who told me, day after day, I sit on the court and I impose mandatory minimum sentences on nonviolent offenders and they take prison spaces from violent offenders who ought to be locked up and have the keys thrown away. But we have such a screwed up system, we impose mandatory minimum sentences on nonviolent criminals and put the violent criminals back on the streets to prey on the people who are innocent.

Sometimes when we seek to be tough, it backfires, and we wind up being tough on the people we need to protect. We need to think very carefully about mandatory minimum sentencing for nonviolent offenders. If we are talking about violent offenders, that is a whole different story. I am for locking them up and throwing away the key. But when it comes to nonviolent offenders, I am afraid mandatory minimum sentencing has actually forced the violent criminals out on the streets because there is not sufficient room in our jails for the violent offenders that are preying on society.

Madam President, the time is right for more aggressive action against violent criminals. This bill takes real steps in that direction. Let me be the first to say I would like to do more. I know the chairman of this committee would like to do more. I know he is frustrated by the limitations of the Budget Act he faces. I know he believes we ought to do more. I am hopeful that before we are done with this bill we will do more.

I believe deeply that violent offenders, especially those who are repeat offenders, ought to be locked up and

serve at least 85 percent of their sentence. That is not happening. In many cases in this country, people are serving about a third of their sentence. And when they get out, they are desperate. They fall back into the old pattern of committing violence against those who are undeserving of such violence.

Madam President, I want to show my colleagues and others who might be listening part of the reality of what we confront because a minority of adult offenders commit the majority of violent crimes. This study from California found that of the convicted adult offenders, only 4 percent committed 56 percent of the violent crimes. Four percent committed 56 percent of the violent crimes. We need to target that 4 percent. We ought to focus in on those folks like a laser. We ought to say to those folks, you commit violent crime in this society, you are going to be caught, you are going to be punished, and you are not getting out for a very long time. That ought to be one focus of our efforts.

Another chart I thought I should show tells us something about the crime committed by repeat offenders on parole or probation.

This shows that 88 percent of repeat offenders who are on parole or probation commit new crimes—88 percent. Thirty-three percent of them commit violent crimes.

This is not rocket science. This is not something difficult to figure out. We have a population of people who are violent criminals, who are repeat violent criminals, who we ought to lock away so as to not endanger the rest of the folks in this society.

As we go through this process, I want to indicate to my colleagues that I will support amendments and I will support more aggressive spending in order to accomplish those goals.

Let me close by once again thanking the chairman of this committee for an extraordinary effort in trying to pull together the various opinions in this body. It is not an easy job, but it is a job we must accomplish.

I also want to salute the Senator from Massachusetts, Senator KERRY, because as we have gone through this discussion behind the scenes on what needs to be done to seriously address this issue, I do not think, other than the chairman of the committee, there has been anyone more outspoken or more dedicated to doing something serious and effective about crime in this country than the Senator from Massachusetts. He knows the dimensions of the problem, and he knows we are going to have to do more than what is in this bill if we are going to be serious about reducing the incidence of crime in this country.

He also knows that, frankly, no crime bill is going to solve this problem because the underlying root causes of what is happening are far beyond what any crime bill will accomplish. That is not to diminish what a crime bill can and should do, because we have to get tough in the short run. We must send a very clear and compelling message to perpetrators of crime that the jig is up in this country. You commit crime, you are going to be caught, you are going to be punished, and it is going to be tough punishment.

But that is not enough. We have to do more than that. We also have to say to those who have lost hope and feel they have no stake in this society that there is a chance, that there is hope, that there is opportunity, that this is a chance to better yourself and to find a way out. That, too, is our obligation. And anyone who is serious about changing the conditions in this country has to deal with both.

I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, I want to congratulate our colleague from North Dakota for an excellent statement. I think his personal experience is a stark reminder to all of us in this very special place that, while generally we are isolated from most of the tragedies that befall the people of our country, we are not totally isolated. As someone far wiser than I once said, until those of us who are not victims of crime are as outraged about it as those who are victims, we are not going to solve this problem.

Our dear colleague from North Dakota has been a victim, and I think his experience—I thank God that he has a quick-witted, tough wife, and maybe a guardian angel in addition—I think his experience is something that reminds all of us that our Nation demands that we do something about this problem.

Madam President, I want to talk a little bit about where we are, and what the issues are. And I will offer a proposal that perhaps could bring us all together to move forward on funding a major crime initiative; in fact, the most significant one, I believe, that we would have ever adopted.

First of all, let me remind my colleagues that 3 days ago I offered an amendment to enforce the President's Reinventing Government Initiative by freezing the level of Federal employment and by reducing that level, in compliance with President Clinton's objective to reduce the number of people in the Federal bureaucracy, by 252,000 over the next 5 years. That amendment was adopted here in the Senate overwhelmingly. Over 80 of our colleagues voted for it.

It then went to the House, and today in an extraordinary vote on a motion to instruct conferees by the ranking Republican on the Ways and Means Committee, Mr. ARCHER, the House, by an overwhelming vote, voted to instruct conferees to accept the amendment. And, something equally important, the Congressional Budget Office scored the amendment today as saving $21 billion over the next 5 years by setting into law a mechanism whereby any time we exceed the employment caps set out in the President's Reinventing Government Program, we have a freeze on hiring until we are in compliance with the provisions of the amendment that was adopted last week.

That produced the $21.8 billion that Senator BYRD offered as an amendment to fund the crime bill. So I wanted to begin by reminding my colleagues that the source of the cornucopia of money that we are now talking about using to fight crime was the amendment that was adopted here last week which put a cap on the Federal employment and mandated a mechanism that will save $21.8 billion.

We have two different approaches to crime and punishment. One is the Democratic approach, which basically is an approach that says let us treat people up to 28 years of age as youthful offenders; let us have boot camps; and then let us put into our prisons a lot of social services.

Madam President, I am not opposed to those things. I think, obviously, given our ability to fund them, they are an important part of the puzzle; but they are only part of the puzzle. What is missing is what is contained in the Republican amendment, which says let us build 10 regional prisons; let us fund those prisons; let us build them now; let us enter into a partnership with the States whereby we say that the States can put violent repeat offenders into these prisons that will be operated jointly by the State governments and by the Federal Government to get violent criminals off of the streets.

There has been a movement by the administration that I believe we are going to reverse here on the floor of the Senate today. The President came into office, offered a budget to cut prison construction by $580 million, and then immediately the administration and the Attorney General started talking about prison overcrowding.

We are not going to reverse minimum mandatory sentencing here on the floor of the Senate today. In fact, we are going to adopt more minimum mandatory sentencing. We are going to adopt minimum mandatory sentencing for gun violations. I want 10 years in prison, without parole, for possessing a firearm during the commission of a violent crime or a drug felony. I want 20 years in prison for discharging the firearm with intent to do bodily harm. I want life imprisonment, without parole, which means for the rest of your life, for anybody who kills somebody with a firearm during the commission of a violent crime or a drug felony, and I want the death penalty in aggravated cases.

I believe we are going to adopt an amendment that I will offer with others, which is a "three-time loser" provision. That is, if you are convicted of three violent crimes, or three major drug felonies, or any combination of three violent crimes or drug felonies, you have become a predator criminal and the time has come to protect society against you, and you are going to get life imprisonment. And we are going to put you in jail and keep you there.

We open our newspapers every day, and we turn on our television sets every night, and it is the same story: Some violent, brutal murder is committed by somebody who should have been in prison, somebody who has been apprehended, convicted and sentenced; yet, they are walking the streets because we have a revolving door in virtually every State prison system in America.

I believe that our bleeding Nation demands that we lock up this revolving door; that we provide the resources to put violent criminals in jail and keep them in jail. When you are talking about the lady who was brutally murdered in a carjacking near here and dragged for a mile and a half, or whether you are talking about Michael Jordan's father, or any other of a thousand violent crimes that we read about every day and see on television every day, they all have one thing in common: All of these people should have been in jail. If they had served out their terms, these people would have been behind bars, and the people that we love and care about would have been alive.

I support our Democratic colleagues in getting drug treatment for people in prison—who could be against that—and for having a boot camp for violent offenders. I do not call a criminal who is 28 years old a youthful offender. They are some of the most violent people in our society. But that is their approach.

The distinguished Senator from West Virginia has proposed using the mechanism of my amendment to fund that. I do not object to it. My proposal is that we adopt the Byrd amendment. I am hoping that I can convince people on my side to adopt the Byrd amendment and then to offer our amendment to build real prisons, so that we have a place to put violent criminals.

Under our bill, we would build these 10 regional prisons. They would house violent repeat offenders. For the States to participate in this program, they would have to adopt truth-in-sentencing provisions so that in my State, Texas, if somebody is sentenced to 20 years in prison, they would have to serve the sentence—not 4 years, not 20 months, not 5 years. In order to participate in the program, we would require that the States apply this to all violent criminals, and we would allow them to jointly use the Federal regional prisons. I believe that that is the kind of provision we need.

So my proposal—and I will be talking to the Senator from Utah and others—is simply this: Given the willingness of Senator BYRD to, in essence, adopt my amendment which cuts existing spending by $21.8 billion, my proposal is that we fund both the social approach of the Democrats, where we treat people in prison for drug abuse, where, as an alternative to incarceration for first time, nonviolent offenders, we have boot camps. But in addition to that, we need to build real prisons for real criminals. Someone who kills somebody in this country at least ought to go to prison.

Today, the average murderer is serving 5 years and 6 months. Is it any wonder that we have violent crime in America everywhere when someone who goes out and brutally rapes somebody spends only 3 years in prison because of prison overcrowding and because of a lenient court system?

We need minimum mandatory sentencing. We need to grab these violent criminals by the throat and not let them go; we need to get a better grip. The way to do that is to build prisons and put people in them. That is what I think we need to do, and I urge my colleagues to allow us to take both approaches. We have the capacity to do it. The problem is big enough. Let us use the carrot of rehabilitation that our Democratic colleagues have offered, but let us use the stick of minimum mandatory sentencing and guaranteed incarceration for violent criminals and the death penalty, which is what we offer. I think a combination of the two will allow us to break the back of violent crime in America—and God knows we need to do that.

I yield the floor.

Mr. DOLE. Madam President, I understood the Senator from Massachusetts was going to be recognized. He has no problem with my taking 1 or 2 minutes.

Mr. KERRY. No. I am delighted to yield to the Republican leader.

A PICTURE THAT IS WORTH A THOUSAND WORDS

Mr. DOLE. Mr. President, we have all heard the old saying that "A picture is worth a thousand words."

Well, there is a photograph on the front page of today's New York Times that says a great deal more than a thousand words.

The picture is of New York City Mayor David Dinkins, and New York City Mayor-elect Rudy Giuliani laughing together in Mayor Dinkin's office.

First of all, this picture says a great deal about America's political system. There are still some places in the world where those in power refuse to leave office, or where the losers of campaigns are put in jail.

Here in America, however, our campaigns may be hard-fought, but they are conducted in the open, and when someone in office is defeated, they do all they can to ensure a smooth transition.

We saw that last year with President Bush, and we are seeing it now with David Dinkins.

And in the final analysis, the picture says a great deal about the type of person that David Dinkins is.

Let me be clear in saying that I campaigned for Rudy Giuliani, and think he will make an outstanding mayor.

But my support for him does not lessen the respect that I have for Mayor Dinkins.

Mayor Dinkins can take great pride in the history he made as New York City's first African-American mayor, and in the difference he made throughout his public service career.

No matter if you agreed with him or not, there was never any doubt that David Dinkins was a decent man who loved New York City, and who gave it his best in very difficult times.

And the words that Mayor Dinkins spoke in his concession speech, urging his supporters to unite behind the new mayor, are an eloquent tribute to his legacy.

"You see, my friends," said Mayor Dinkins, "Elections come and go, candidates come and go, mayors come and go, but the life of the city must endure."

Mr. President, I am confident that in the years ahead, David Dinkins will have much to contribute to the life of the city he loves so much, as well as the life of America.

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I thank the Chair.

Madam President, it is my understanding that the Senator from California also has a brief statement, I think of about 6 minutes. If I could ask unanimous consent to retain the floor after her comments I would be happy to yield such time as she needs.

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

Mr. KERRY. I thank the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I thank the Chair and thank my gracious friend from Massachusetts. He has I think quite a brilliant proposal to put forward, and I have a far briefer statement. I would appreciate it if the Chair would let me know when 6 minutes are up, and I will wind up at that time.

CRIME IN AMERICA

Mrs. BOXER. Madam President, I rise to talk about the epidemic of crime and violence in America.

A seventh grader should not have to choose between getting an education and staying alive. A woman should not have to look fear in the face every time she walks from her car to her house at night and you and I understand what that fear is like. And, no one should have to worry about deranged individuals wielding military-style assault weapons, outgunning our police officers and turning our communities into war zones.

After more than a decade of neglect, we have a President who is willing to meet these problems head on. And, we have a chairman of the Judiciary Committee, Senator BIDEN, who is willing to work as long as it takes to make America a safer nation.

The epidemic of violence has sent shock waves of fear throughout my Golden State of California. In Fresno, CA, 65 percent of the residents are afraid to walk alone at night in their neighborhoods. Fifty-six percent of the residents in Orange County, CA, said that they frequently worry about crime.

The people of California are right to worry. According to the California Department of Justice, California saw violent crimes increase by 19 percent between the years of 1987 and 1992. Last year, the U.S. Department of Justice documented 345,000 acts of violent crime in California and the U.S. Sentencing Commission reported almost 4,000 murders.

As a woman, I can personally testify that almost every girl or woman I know is continually living with fear for her future every single day.

But the people of California have help on the way with this crime bill, thanks to the very hard work of the committee on which you serve, Madam President, and which is chaired by my dear friend from Delaware, Senator BIDEN, because this legislation gives our police officers, our judges, and our community leaders the tools they need to take our streets back, and that means tougher penalties for violent crimes.

For example, we know what arson has done to the people and communities in southern California. I am analyzing Federal law and jurisdiction on this issue and am looking into provisions that will beef up and give teeth to these penalties.

Taking back our streets means forging a partnership between the community and the police by increasing the numbers of police officers on the beat.

The crime bill will put 50,000 more police officers on the streets. Californians understand the importance of community policing. Just look at the success story in East Palo Alto, CA. With 42 murders last year, this small city of 24,000 had, per capita, become the murder capital of the Nation.

Did they simply wring their hands? No. They brought in more police officers, both on the beat and in their cars and they got results. They saw their arrest rate almost double and their homicide rate drop dramatically—from a high of 32 at this time last year to five so far this year. The East Palo Alto police captain summed up the change in his city by explaining that the criminals "don't own the streets anymore."

But, if we are going to take our streets back, we cannot continue to allow our police officers to be outgunned. According to the California Justice Department, firearms contributed to almost three-fourths of California's homicides in 1992 and to two-thirds of our armed robberies that same year.

We cannot forget the 21 people who were gunned down at a San Ysidro McDonald's in 1984. Or the five children who were killed at that Stockton school yard in 1989. Or, just this past summer, the deranged gunman who killed eight people at 101 California Street in San Francisco. How many more people must die, how many more families destroyed before we act? We need to get serious and enact tough measures that tighten licensing requirements, create tamper-proof gun licenses, and take these dangerous assault weapons off our streets and out of the hands of children and felons.

Nowhere are the effects of gun violence more horrific than in this nation's schools. A U.S. News and World Report story noted that 270,000 guns go to school every day. Our children used to be scared that the school bully would pull their hair. Now, the class bully has an assault weapon in his locker and too many of our eighth graders are scared to go to school. They have every reason to be scared and its a disgrace that we, as a society, are not protecting our children.

Since 1984 gangs have spread into 187 cities—big and small. Chris, a 17-year-old gang member from Fresno, CA, was quoted in the Fresno Bee saying, "We try not to shoot the innocent, but if it happens, it happens." Madam President, that statement is appalling.

During a recent townhall meeting in California, 15-year old Dion Brown told President Clinton what it was like to watch his brother die from a gunshot wound at Los Angeles Dorsey High School. "Now, I am afraid to go to any school. Mr. President, what can you do about guns and violence in our schools?"

And, what about the child in the D.C. area who, at age 11, has already laid out plans for her funeral. She does not expect to live. Madam President, enough is enough.

We must start by giving our schools back to the students, their parents, and their teachers. Doing this means removing children who bring guns to school from the school until they are no longer a danger. It means enacting the Safe Schools provision of this crime bill, addressing the escalating gang problem, and instituting policies that protect our children and teach them how to solve their problems without violence.

Not only do children find it easy to obtain guns and join gangs, but increasingly, they are expressing a disrespect for human life and a willingness to pull the trigger. Tulane University researchers asked suburban high schoolers when they would endorse shooting someone else. Twenty percent of them said it was OK to shoot someone who had stolen from them. And, a shocking 8 percent said that it was OK to shoot someone who had done something to upset or offend them. Listen very carefully. These children are growing up thinking that it is perfectly all right to exchange a bullet for an insult.

Children are not the only ones who need to learn to solve their problems and express their differences without violence. There is a pervasive culture and disease of violence in America. It cuts across communities of every size and reaches into all of our institutions—both public and private. While this bill will attack many of the components of crime in America, I believe that it is time to tie the pieces together and examine comprehensive solutions to this deadly epidemic. It is time to put forward a national strategy to make America safe.

That is why I am—will introduce—an amendment urging the President to convene a Presidential summit on violence in America. We clearly have a crisis of violence in America that is eating at every fabric and soul of this Nation. This summit will help us put our heads together—community leaders, health professionals, law enforcement, young people, the media and others—in order focus attention on this incredible problem.

I believe that this national summit will spark smaller forums all across the country. This is an American problem that requires American solutions. We can and must find them. The crime bill before us today is a start; the summit will provide us with a long-term strategy so that once again we can feel safe and secure in our homes, in our schools, and in our communities.

So, Madam President, I thank you for your indulgence. I thank the good Senator from Massachusetts. I look forward to hearing his remarks.

I yield the floor.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Under the previous order, the Senator from Massachusetts is to be recognized at the conclusion of the remarks of the Senator from California.

Mr. HATFIELD. I did not understand that.

Mr. KERRY. Madam President, I have been in process of ceding here. I

want to tie up the floor a while. I will yield to our colleague if he did not have a long statement.

Mr. HATFIELD. I have 5 minutes.

Mr. KERRY. I am happy to yield to the Senator for 5 minutes because I will be longer than that.

If I could have the understanding, Madam President, that the floor would revert to me I would appreciate it, and I so ask unanimous consent.

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

The Senator from Oregon.

Mr. HATFIELD. Madam President, I thank the Senator from Massachusetts. I must confess I did not understand we were under a time agreement at this time.

The PRESIDING OFFICER. There is no time agreement. That was the previous order agreed upon before the Senator from California started to speak.

Mr. HATFIELD. I would be happy to defer back to the Senator from Massachusetts to await my turn to have the floor, but I only want 5 minutes.

Mr. KERRY. Madam President, as I said I am happy to let my colleague go for 5 minutes unless he feels he wants to wait.

Mr. HATFIELD. I appreciate it.

The PRESIDING OFFICER. The Senator from Oregon.

AMENDMENT NO. 1101

Mr. HATFIELD. Madam President, I just want to speak briefly to the proposition of a trust fund being proposed as a way to fund the crime bill.

Madam President, I cannot be too emphatic to say that I oppose creating new trust funds outside of the normal budget process unless such funds are funded by non-Federal sources or some independent sources.

As important an issue as crime prevention is, and I applaud the committee for its efforts not only this year but in years before, I believe that crime prevention programs can compete successfully with other discretionary programs in the normal budget and appropriations process.

We can get up here on the floor, in my view, and we can argue for a trust fund for funding child nutrition—setting aside discretionary funds within our budget for this worthy purpose. We could argue for a trust fund for Border Patrol needs or for mass transit or for assisted housing or for tax collection or any other vital Federal function. We have many vital Federal needs.

If we create enough special trust funds we can put our entire appropriations process on automatic pilot, pack up and go home.

I do not believe we should do that. We have many tough decisions to make in the appropriations process, but we should not shirk from them just because they are tough decisions.

Let us consider the funding requirements for violent crime and all the needs for its reduction, along with all other demands for Federal discretionary dollars and not create a special trust fund which would fall outside the constraints of the Budget Act, unless the funding would also fall outside of the Federal Treasury.

Now, Madam President, I would like to remind my colleagues of an interesting vote which occurred on this floor on October 27. The Senator from Texas [Mr. GRAMM] had proposed that we take the money dedicated to the superconducting super collider, instead apply it against deficit reduction.

Madam President, it is very interesting. On a Budget Act point of order, there were only two Republicans that voted against the question—Mr. STEVENS of Alaska and myself. Thirty-seven Democrats voted against it. The proponents got only 58 votes. The budget waiver was denied by two votes.

The arguments used were simple. The appropriations process ought to be able to make priorities across the board and to reallocate those dollars saved from the superconducting super collider, rather than earmarking them against the so-called budget deficit, an objective which we all think is very important.

Today, we are hearing the arguments being made from that same side of the aisle that somehow we ought to take these savings made from the President's reinvention of Government and put them in a trust fund for crime prevention.

Madam President, the principle is the same as that we defeated by an interesting combination of 2 Republicans and 37 Democrats on October 27.

Now I just think it ought to be clearly established here that we are talking about a fundamental principle that has been tested on this floor for a worthy cause within the last few weeks. And yet, today, we hear the whole proposition being put to us again, because of the importance of crime—and I do not disagree with the vital importance of crime—but the proposed approach is wrong.

I thank the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, I thank the Senator from Oregon.

I must say, I am glad I let him speak before me, because everything that I say will be an effort to try to contradict the reservations that have been articulated by the Senator.

I well understand his concerns about trust funds. But this is an issue unlike any other issue that confronts us today.

The argument that I will make is an argument that this is a national emergency, similar to those we have met in many other ways.

I would point my colleague's attention to this chart, which I ask colleagues to focus on. That book that was written, "Keep Your Eye on the Prize", well, let us keep our eyes on the prize.

We are a nation that was willing to spend $120 billion in a couple of years to bail out the savings and loans; a nation willing to spend $100 billion for the Department of Energy weapons cleanup; the Stealth bomber, $44 billion; the space station, $37 billion over 5 or 6 years.

You can run down the list of items.

We just spent $6 billion in a couple of hours of debate to bail out people from the floodwaters of the Midwest. And now we are unwilling to say that we are going to declare a national emergency for the flood of crime which is ripping at the fabric of this country.

Our bill currently has, what, $9.6 billion, up from $5.6 billion last week, and now it is contemplated to rise to $12 billion over 5 years. That is about $2.4 billion a year, when Americans are dying at a rate that is faster than GI's died during World War II.

Madam President, I read to my colleagues the Constitution of the United States from the Senate Manual: "We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility * * * do ordain and establish this Constitution" of this country.

Our entire Constitution is founded on the notion that we will ensure the domestic tranquillity of this country.

Mr. HATFIELD. Will the Senator yield for just one question?

Mr. KERRY. The Senator would be honored to yield for a question.

Mr. HATFIELD. The Senator, I think, makes an excellent point. I could not disagree with him one iota on the significance and the national character of this terrible issue.

But is the Senator not aware that in the Budget Act we have provisions for emergencies of this kind? All the President has to do is to declare an emergency. And, as a member of the Appropriations Committee for over 20 years, almost without fail, we have responded to those emergencies and we have handled it without establishing a trust fund.

I will respond as a member of the Appropriations Committee, as ranking Republican of the Appropriations Committee, to the money required to fight the war against crime that we consider in this authorization bill. But I will say to the Senator, I do not see where he feels that it is so vital and necessary to establish a trust fund, merely to separate funds from the pool of domestic discretionary moneys for a special purpose.

Mr. KERRY. Madam President, I say to the distinguished Senator, who really, I know, is as committed to doing something—I am not trying to suggest he is not—but who understands the budgeting process very well around here. I wrote a memo to the President

the other day suggesting he declare a national emergency. And I have talked with the leadership about it, and others.

There is obviously the dilemma that, when we are trying to live within certain budget constraints, we want to send all the right messages. You do not want, hopefully, to have to come back and declare a budget emergency each year, because we are talking about outyears in the effort to fund here.

So the establishment of a trust fund is a way of guaranteeing to Americans, as well as to the police forces, to the prison construction process, to the guards, to those who are part of what we call the criminal justice system, that, in effect, we are not relying on the vagaries of American politics to come up next year and the next year to meet the need of the deficits. The fund is there; this is for real.

Now I would like to make the argument to the Senator from Oregon as to why I think this is so important. I ask my colleagues to try to strip away what cloaks us so quickly around here, which is this horrible partisan mantle.

I applaud a lot of what the Senator from Texas said a moment ago. I would like to see if we could get both sides together and find the best of a legitimate approach so that we defuse the rhetoric and so that we take the partisanship away and respond, because, while there are differences among us, there ought to be a consensus that this problem—I do not even want to call it a crisis, it is a horribly overused word—that this problem has now reached a level in this country that demands of us a different kind of response. Not a Democratic response, not a Republican response, but, frankly, just a fundamental approach of common sense and downright, sort of back home plain talk that Americans expect of us here.

I would like to suggest to my colleague, the only way you can measure what the approach ought to be here is to put in context what is happening in this country.

Madam President, I want to congratulate the Senator from Delaware, the chairman of the Judiciary Committee, because he has been one of the prime advocates of this. He has pushed and cajoled through all of his years here, and he has brought to the floor year in and year out a bill that has tried to do more than we, his colleagues, were willing to do.

And now we are at a point where we have had a bill that, just in the last week has gone from $5.9 billion to $9.6 billion, now to $12 billion. Something tells me there is something cooking here where people are beginning to make a measurement of what is really at stake.

Madam President, if we are going to decide whether or not to create a trust fund, and if we are going to think realistically about how much money to put into that trust fund, then we need to take a few minutes to try to strip away the politics and think in reality about what is happening to this country of ours, as a consequence of not just crime but a whole set of circumstances that have their own momentum, that have really broken loose and now have a life of their own.

I think the first place to start is to understand that this is not a problem of the last 5 years. It is not a problem that is George Bush's problem, it is not Ronald Reagan's problem, it is not Jerry Ford, Jimmy Carter, Richard Nixon, Lyndon Johnson—it goes back 30 and 35 years.

In point of fact in that entire period of time there really has not been what you would call a serious response, in all of those 35 years—there truly has not been a serious response.

That is what I suggest to my colleagues. I ask my colleagues to please think about what we call the criminal justice system. It is today not truly a system, because we have not empowered it to be a system.

There are many components of it. You cannot just put cops on the street who may make arrests, who will then send people to a court system that does not have the judges and clerks and probation officers and the courtrooms and capacity to process the cases. You cannot process cases rapidly under a speedy trial law if you do not have the prisons to put the people in who deserve to be incarcerated. And we all know we do not today.

Why do we not have them today? It is not a great mystery. It is because you have to ask Americans to pay for them and nobody really wants to do that. Or has not until this moment.

I suggest respectfully if we come to this floor in the course of this crime bill discussion, and all we do is whip out a few billion dollars and say slap it onto prisons here, slap it into the police here, we will absolutely guarantee several things.

No. 1, crime will go up. We will return to this floor next year and have to have a new level of hysteria about crime. And we will guarantee the American people will diminish even further their assessment of what the U.S. Congress understands and what it is willing to commit to do. Those things will happen 1 year from now, 2 years from now, unless we try to stop ourselves in our tracks right now and define: Is this an emergency? Is it really all that our rhetoric suggests it is? Is it less? Is it more?

If it is what our rhetoric suggests it is, then it is an emergency. And it demands a response that is commensurate with the level of rhetoric. Personally I do not think it ought to take us very long to make an assessment of what we ought to do here today because the reality is screaming out at us from every single corner of America today. It is a hysteria, I might add, that really demands a real response, not the half-hearted election year responses that have characterized so much of what we have done in the past. All you have to do is look around.

The Senator from North Dakota [Mr. CONRAD], for whom I enormously am grateful for the comments he made regarding my efforts, but he is somebody who has helped to move members of the caucus and others because of his own personal experiences. It should not take a U.S. Senator to come to the floor and tell us what happened to his wife, or what happened to staffers up here, to begin to even comprehend what the average American is seeing on a daily basis in so many parts of this country. If you look around the United States of America today you can see violent drug-ridden realities. It is a reality in which the institutions of civilized social life are breaking down, where you have disintegrated families, boarded-up store fronts, schools that have become armed camps, and crack houses that are replacing community centers as the focus of neighborhood life.

An honest appraisal will show you that we are now a country where young men die, particularly young blacks die, at a rate exceeding that of the Vietnam war and generally exceeding that of any other American war, a rate that is unacceptable. We see a country where, literally, far too many of our kids are carrying guns to school instead of lunch boxes. We see an America where the quality of our life and our capacity to build community is literally devastated by what is happening in some of these communities. If you are not impacted by crime directly, we are all impacted by the fear of crime. Increasingly, Americans have been asked to put up with a tragic, inescapable degradation, a scale that is going like this, downwards, in the quality of life of our fellow citizens. That day-to-day degradation of the quality of our life is ripping away at our identity, our national identity—who we are and who we hope to be. In a sense, I think it is fair to say it is changing the character of the American soul.

We have always had poverty in the United States of America and we have always had violent crime. You can go back to the days of the first Pilgrims who came to Massachusetts, or the Chair's State, Virginia. We have had problems with alcohol. We have had problems with drugs through our history. But we have never seen an America with the kind of problems that we see today in our urban and rural neighborhoods. We have never seen children talk matter-of-factly about blowing each other away or about living in a world where guns are as common as water. Or about going to bed at night with the notion they may not get up the next day except to face a hail of

bullets. We have never had an America where children are talking about planning their funerals, as we read in the Washington Post just a couple of days ago, rather than planning their careers, or their vacations. We have never seen an America where a 2-year-old girl could be found at a day care center with 11 vials of crack in her pockets, thinking they were candy. Or where a kindergartner could find a gun in a stroller and use it to kill his little sister.

We have never tried to raise children in an environment where the glorification of violence is as great as ours is, and where there is such immediate relevance to so many of that violence. Where our media tend to try to prove once and again that they can outshock reality, never truly doing so, and where some musicians even celebrate murder in cold blood of our police officers. So, we find ourselves today in a very different United States of America from what any of us want or from what any citizen has a right to expect.

We have an incarceration rate in the United States of America that is already higher than any other nation in the world. We imprison black males at five times the rate of South Africa and we have more black young Americans in jail today than we do in college.

Mr. President, 42 percent of the young black males in Washington, DC, are in the court system of this city. So, for too many people, for too many of our fellow citizens, what we know as the land of opportunity has become a land of forbidden zones, a land where you see whole parts of our so-called community deserted by working people, deserted by businesses, deserted ultimately by families, and certainly deserted of children's laughter, deserted of hope. And it has changed the way we live. We spend money on locks. We spend money on insurance rates. We up the amount of money we spend in our hospitals for trauma.

(Mr. ROBB assumed the chair.)

Mr. KERRY. Mr. President, we are an armed camp. We have more private police in America today than we do public police; 1.5 million private police officers versus 535,000 public police officers in our States and localities.

Some people want to believe, believe it or not, that somehow this will take care of itself. Some people want to believe that if you close your eyes and you kind of go through your sheltered life, if you are lucky enough to have one, that you might just be lucky enough to avoid this reality. But I will tell you something, the FBI statistics tell you that is not true either, because the FBI statistics now tell us in 1993 that 83 percent of all Americans can expect to be the victim of a violent crime in their lifetime—83 percent of all Americans.

I have had my car stolen three times. I have had my house broken into. I was walking down the street in Washington the other day right on 15th Street, a block and a half from the White House. A car came screaming out, recklessly driving around, threw a beer bottle out and it broke at my feet. I yelled at them and realized I made a mistake. They drove around the corner, stopped and started backing up. I walked into a restaurant, I got on the phone. The car drove up and I saw them glaring at me. I am confident if I stayed out on the street, I might be a statistic today.

There is not an American today who is not walking out of a home deciding where to go that is not impacted by what is happening. I was talking with people in Massachusetts the other day in one of the richest communities in the State. They were telling me how their whole life has changed. Parents do not allow their kids to walk in the aisle next to them in the supermarket alone for fear that there might be a stranger there to cart them off. Parents do not let children go to certain places based on the threat of crime. We make decisions as to where we will go to eat at night based on the threat of crime. We make decisions as to whether or not we will let our kids travel here, there, wherever.

One parent told me the other day in Massachusetts that when the doorbell rings, in their fairly affluent communities in one of these suburbs, their instant reaction to the children is: "Don't answer that, I'll get it," because they fear the stranger at the door.

This has changed the way we look out the window. It has changed the way we live in our homes. It has changed all the perceptions of America, and no one should think that they can just somehow wish this thing away that has been 35 years in the building.

Mr. President, I believe that the rhetoric we have heard in the 9 years that I have now been here has only undermined the willingness of the American people to believe that we are ready to do something about this or that we understand what needs to be done. The bill that is on the floor, for $12 billion, is the first real beginning that I have seen in all the years I have been here, but it is not enough. It is not enough, Mr. President. It is simply not enough. We need to examine the reality of what is happening to understand why it is not enough.

Look at this level of fear that I am talking about across this country. That fear affects all the conduct that we care about when you are talking about these words: "Domestic tranquility." And that fear, candidly, leads to more evil.

In the end, the great generosity that we know that normally comes from the American spirit falls in the face of that fear. So we abandon homes, we abandon communities out of fear, we abandon downtowns. We abandon public squares. We stop fighting for our own liberty in these places because of our fear and because we have been unwilling to put the resources into the battle.

So what happens? We start by witnessing the invasion into our public places of thugs and punks and they begin to take over those public places so that senior citizens or law-abiding citizens fear to move there because they have a perception that these people may be a little wild, a little crazy. Maybe they are out for a wilding, maybe they just want to rough them up, maybe they want to take their money, jostle them. So you divert, you walk the other way around the sidewalk and you have lost part of your liberty. You have lost something that we are supposed to have in this country.

So it is today, as I said, Mr. President, that there are more private police, and that is well and good for those who can afford them. But not everybody can afford to live in a gated community or in a private preserve.

Last year, the New York Times reported that much of the middle class was moving out of Philadelphia. More recently, the New York Times reported that much of the middle class appears ready to move out of New York. And tomorrow, they may write about Boston, though much of it has already moved out of parts of Boston, or any other city in the Nation. Almost every single city in this country has areas that are virtually abandoned, buildings that are disfigured, gutted, stores and businesses shattered, their night streets empty and menacing. There are schools from which all learning has almost died, where a quarter of all the students report that they carry weapons to school—a quarter of all the students carry weapons to school for protection, and now even more adults in America pack a weapon for protection on public transportation. So we lose the freedom of travel; we lose the freedom of choice; we lose part of who we are.

Mr. President, in a certain respect, because we now live our lives where we have to make these constant, constant conscious choices about the potential impact of being hit in the head, or a member of the family being raped, because of that, we literally walk around with a new sense of terror about a confrontation, an unwanted confrontation. In a sense, that has become a prison that we all carry around with us in this country.

I do not think there is anybody here who is soft on crime. We should get away from this whole arising that tries to suggest that one person or another—there is not a U.S. Senator who is soft on crime. There are differences of opinion, however, as to what will make the difference in fighting crime. When we are stuck, as we have been for these

last years, in a fiscal box that does not treat this as an emergency, we reduce our capacity to reach a compromise because we hold out a pot of money that is so minimal that everybody is fighting to grab their piece for their idea of what will make a difference and, in the end, nothing significant gets done that will make a difference.

That is our own fault because we do not understand the full ramifications of what is happening, so we do not hold out enough money. The result is we do not do the job and the result is all the rest of what I just talked about.

I think we have to acknowledge that and I think we have to understand the degree to which we hold in our hands the ability to be able to address this. I do not believe that we need to be losing. I do not believe that we do not understand what to do. I do not believe that there are not real choices that we could pick one by one that will address this issue and have an impact and affect the lives of Americans.

Lest anybody have any sort of doubts about this system and what is happening, I want to run through just a few charts very quickly that articulate it.

This is the murder rate and this is only the percentage of change from 1988. Since 1988, murder went up 19 percent, by 1991, slapped down a little bit to 15 percent but it is back up right now. So that is the murder rate. That is one measure of crime.

Violent crime as a whole, since 1988, it is up 23 percent.

Robbery, up 24 percent from 1988, and I will go through the individual kinds of robbery that are up.

Aggravated assault, it is up 24 percent from 1988.

Forcible rape, up 18 percent from 1988.

When you start breaking down the robberies, you see that commercial and house robbery is up 27 percent; bank robbery, up 44 percent; convenience store robbery, up 10 percent. It dipped down just last year. I suppose people have found a better target than convenience stores, which seem to be arming themselves nowadays. Gas station robbery, up 12 percent in 1991, 7 percent in 1992; street robbery—that is to say, citizens just walking down the street trying to live like a decent American—29 percent street robbery is up; residence robbery, 15 percent.

Now, some people might say well, hey, it is OK, crime is up. We have the police out there; they are going to do the job.

Let me just show my colleagues what is happening with respect to murder. If you do not think it is not a national emergency after you begin to see what is happening to murder and to our ability to clear, I do not know what is a national emergency.

These are hard statistics to see, but I will read them. These are the age, sex, and race of murder offenders. Let me just share the age of murder offenders in the United States in 1992. The largest numbers of murders are now being committed by kids aged 15 to 19 years old. That is the largest single category of murderers in the United States, kids 15 to 19. There were 4,249 murders by kids who are 15 to 19; 3,929 murders by kids 20 to 24; and 2,614 by young adults the age of 25 to 29. It drops down markedly to 1800, 1200, 800, 500, 300, 200, as you go up into the higher age categories.

What is also dramatic, Mr. President, is the age and sex and race of those being murdered. The victims of the 15- to 19-year-old pack, where most murders are 15- to 19-year-olds, there were 2,851 of them. The next highest category is 20- to 24-year-olds who are being murdered by people 20 to 24 years old and 15 to 19 years old.

So we have lost a generation of young people, and there are reasons for that. I believe we can understand some of those reasons, not all of them.

Mr. President, there are many reasons for crime, but anybody in the court system will tell you today, when they talk to these kids, they come from broken homes, some of them broke after they were born but many of them never had a father around or a mother or both. In fact, when you go back to the words of our colleague, Senator MOYNIHAN, in 1965, in this country, he talked about what happens when kids are born without parents around, without people to suggest there is a difference between right and wrong, between one form of behavior and another form of behavior, that there is a difference when somebody is there to inculcate a value system. We have kids growing up today in America who grow up without any human ties and at an alarming rate, Mr. President.

In 1965, the rate of illegitimacy in the black community it happens was then 27 percent, in the white community it was about 4 percent. It is up everywhere, incidentally. This is not a chart that somehow pins the problem at one people or another. This is across the board—white, Hispanic, black. This is an American problem. It went up in 1970 to 37.5- percent illegitimacy. In 1975, it went up to 49.5 percent, 7 percent among whites. In 1980, we began to see Hispanics enter the picture—11 percent white illegitimacy, 25.5 Hispanic, 56.1 in the black community, and in 1990, 3 years ago, 20.4 percent among whites, 66.5 percent among blacks, and 36.7 percent among Hispanics.

These kids who in 1970 were born without values inculcated became 15 and 16 in 1985, and the kids born in 1975 became 15 and 16 in 1990. You can turn to the charts of how crime has gone up among young people in those same cycles and you will see, as we have had a generation that has had no attention, no input, reduced resources, reduced focus on values, reduced ability to distinguish between right and wrong, indeed, crime has gone up significantly.

So we can ask ourselves what will happen when we hit the year 2000 and the kids who are born today are 10 and 12 and increasingly violent because we have not attempted to intervene or do what is necessary.

Now, Mr. President, I mentioned a moment ago the increase of each kind of crime in America. Let me share with my colleagues, who may think that the police or someone is there to protect them, some stunning figures. These are called the clearance rates by arrest. We measure whether or not a crime has been taken care of by measuring clearance rate of the crime by arrest or by conviction.

For burglary, in 87 percent of the crimes we do not even make an arrest. We only clear 13 percent of the burglaries by arrest. And you know that when you arrest you do not convict everybody. So the number of burglars in America who pay a price is minimal. Larceny: 80 percent of the people who commit larceny are never caught. Motor vehicle theft, 76 percent of the people are never caught. No arrests. We do not clear the case. Then, when you come to violent crime, it is equally disturbing.

Of the murders, 35 or 36 percent of the murders committed in America we never even make an arrest. And for the 65 percent that are cleared by arrest, we get a conviction rate that is such that for more than 50 percent of the people murdered in America, there is no price paid. We do not catch them.

For aggravated assault, it is a higher number—40-some percent that do not get caught; 48 percent do not get caught for forcible rape; 76 percent for robbery do not get caught.

Now, why is this? Why do we not catch people in America today?

Mr. President, there is a good reason for that. Because we have been busy disarming in the face of an increased threat. Twenty-five years ago in America, there were 3.3 police officers per violent crime. In 1993, there are 3.3 violent crimes per police officer. So each police officer in America is 10.56 times more likely to confront a violent crime than his predecessor 25 years ago. And if we do what this bill wants to do, even at its increased level of funding, we will merely reduce that 10.56 percent down to 9.5 percent.

So incrementally, do you think a police officer is going to feel safer knowing that instead of being 10.5 times more likely to hit a violent crime, he is only 9.5 times as likely? Do you think the American citizen is really going to feel safer from what we have done because now, instead of 3.3 violent crimes per police officer, we have gone down to 3.1 violent crimes per police officer? This is incrementalism. And the problem is that unless we put a sufficient number of police in our streets

who can literally restore order, we will not do anything except once again send a message that we have played politics; once again send a message that we are not really that serious, and that the criminal justice system cannot respond.

Mr. President, there are other aspects of this that we could look at to indicate why we have a problem. The Senator from Delaware has very articulately, again and again, tried to remind colleagues on the floor. The problem is not at the Federal level. If we come to this floor and all we do, for instance, is pass another form of the Federal death penalty, then we are mocking what is happening.

Do you realize we have some 47 new Federal death penalties in this bill? That is OK. If we are going to have more, that is fine by me. But we have a new Federal death penalty in here for genocide. The last time I noticed, there was not a lot of genocide prosecutions in the United States. We have a death penalty in here for people who kill Senators. Again, not of those murders either.

But what we do not have in here, Mr. President, is sufficient money to help 95 percent of the battlefield to get the weapons and the strategy it needs. I repeat: 95 percent of the battlefield is State and local. It is the State prison system that is overcrowded. It is the cities and the rural communities that do not have the cops. And nowhere is this more clearly evidenced than in this chart which shows what has happened over the last years.

When I was last prosecuting—it seems a long time ago, and it probably is now—in 1980, we had the Law Enforcement Assistance Administration. I see the former attorney general from Connecticut, the Senator from Connecticut [Mr. LIEBERMAN], is here now. He remembers the LEAA. It was what empowered us to prosecute.

When I came into office, we had 12,000 backlogged cases. We could not deliver justice. But because we were able to get grants for a major violator unit, for priority prosecution, for extra clerks and judges, we whittled that down to zero backlog, and we could try any serious felony within 90 days from arrest until conviction. And we had a place to put them.

But that is not true today. We had $2.3 billion from the Federal Government going to the States to assist them to make the criminal justice system work. Here is the chart. That was 1974, 1975, 1976, 1977, and then beginning in 1978, down, down, down, and in constant dollars, up slightly in the last couple of years. We are not even close to the level we were at 13 years ago, and the crime problem is 10 times worse.

We are spending in constant dollars about $756 million today to help the States versus $2.3 billion a few years ago.

So that is an indicator, Mr. President, of how we have not treated this with anything except really rhetoric.

Let me show you what is happening in the prisons themselves. If you are going to have a criminal justice—oh, everybody comes to the floor, and says," What we need are mandatory sentences." OK. Let us have a mandatory sentence. But let us understand. If you are going to take the discretion away from the judge and have a mandatory sentence, that means somebody is automatically going to go away for that crime. That means you need a bed. And you need a guard. You need all the other personnel who service that. We have not been willing to do that.

The result is today that for all our talk of tough sentencing and being tough, we are at 137 percent capacity in the Federal system. In the Northeast, the only State below capacity is Rhode Island, the smallest State in the country; Connecticut, 113 percent; Maine, 112 percent; Massachusetts, 144 percent; New Hampshire, 153 percent; and so forth: 131, 149. You go out in the Midwest, and here is Nebraska, 150 percent capacity; Ohio, 177 percent capacity; Wisconsin, 139 percent capacity.

You go down to the South. Well, in the State of North Carolina, it is 95 percent; Mississippi, 155 percent; Virginia, 139 percent.

These are the States and local communities, State for State for State. If we were going to pass mandatory sentencing somewhere, we do not pass them for the States, obviously. We only pass them for the Federal government. So we can create some kind of carrot in this system to bring the States in. But if we do, with all the other mandates that we have been busy passing and not funding for the States, we had better think about what kind of system we are building.

I respectfully suggest to my colleagues that you cannot go on this way. You cannot come to the floor of the Senate and say that we have to do something about crime. You cannot say we are going to have tough sentences and that will do it, without having a probation officer to handle the kid who deserves to be handled by someone on a personal level; without having a clerk to take the court papers and move them from the courtroom to the jail; without having the jailer and the transportation necessary to get them from here to there. And there is not a criminal justice agency in this country that is not groaning under the weight of our rhetorical mandates that do not do the job.

People sit here and say where do we start? This is a big thing. It is a big thing. It has been 35 years in coming. You certainly do not start by ignoring it. I think we all accept that. You do not start by doing nothing. That is not acceptable. So, OK. We have to decide where we start. And the first and foremost place, I respectfully suggest, to begin is the police. It is the police.

Some people say, "Senator, you are crazy. We don't need more cops on the street." In some communities that may be true. But I know that my police commissioner in Boston tells me he wants 350 more cops for community policing. And I know that here in the city of Washington, in the most extraordinary statement of the utter bankruptcy of this system, the Mayor asked for the National Guard, for 3,000 people, and then backed off and said administratively, we only want a few because the concept of the military in our streets, policing, obviously raises hackles in America.

But what the Mayor of Washington was saying is we do not have the front line. We do not even have the capacity to keep the peace. She threw up her hands in utter despair, and said, "Help me."

You can go to cities all over this country where we do not have sufficient cops.

I will tell you something. A police officer on the street makes a difference. People do not just walk up and hit people right under the nose of a cop. People do not tend to lie around in the doorways and force you to make a detour to get where you are going if there is a cop there. A cop is literally the front line of the defense for this country.

That is what the Constitution says we ought to be paying attention to. Gangs in the streets cannot run wild. They know they do not have to wait for someone to buzz a 911 that does not even answer. So a couple of guys will come by in a car, drive through, not see them, and disappear around the corner. That is not policing.

A lot of good people have come to understand that in the police structures of this country. Lee Brown understands it. Bill Bratton up in Boston understands it. The mayor down in Houston, Mayor Whitmire, understands it. He put more cops on the street in Texas recently, and crime has gone down 20 percent.

In East Palo Alto, CA, they struggled to get extra money. They put some cops on the street. And, by gosh, crimes started to go down. Civil order began to return.

I want to suggest respectfully that there is a means in this bill to deal with this problem. Crime creates poverty. We do not think about that very often. But if you look in a lot of the centers of our country which are poor, crime helps create that poverty because each murder, each rape, each burglary, each mugging makes it a lot more likely that a business is going to close.

It makes it more likely that somebody who does earn a decent living is going to get out of there just as fast as they can. They are going to skedaddle

the moment they can economically make it. So controlling crime is a precondition to any serious attempt to try to deal with the social or economic reform that we need to deal with in the United States.

I might add that urban crime, although much of it is interracial, is also the most deadly poison there is to improved relations between blacks and whites, Koreans and whites, and Hispanics and whites, because it is critical in shaping opinions and defining behavior, and fear will defeat fairness every time.

So I say to my colleagues that Albert Schweitzer reminded us that the truth has no special time; its hour is now. This is a time of special urgency for this country. It is a time for us to tell the truth, Mr. President, and it is time for us to deal with the truth with a special urgency. We have allowed to grow in our midst in this country a deadly and menacing criminality. Now we need to strike back in the ways that we know we can.

Another part of the truth is that more and more of the crimes that are reported to the police are simply going unexamined because they do not have time. And for each failure to arrest, Mr. President, there is a spreading of the fear, because there is a network there; there is the victim, the victim's family, the cops, and there are the people brought into the system, all of whom understand what is happening. And for victim for victim for victim, for year for year for year, they are spreading the tentacles of that fear through this country. They understand when there is no police officer to go to court with them as they came to court for the third time and the case is dismissed, they understand that the system is failing. They understand when they realize after 2 years that they can barely get the detective or inspector to answer the phone for their crime that is now 2 years old because they are swamped underneath the crime that is a week or 2 weeks or 2 months old. That spreads from community to community to community.

Mr. President, I think it is obvious to all of us that Government is not the whole solution. I do not want to come to the floor and remotely suggest that. We have to deal with questions of values, questions of parenting, problems of education. We have the problems of lack of available resources for those incredible Americans who are on the front line of really being missionaries in this effort, who are trying to reach out to kids as part of the ABCD programs, or other efforts, and who monitor, so they are struggling upstream. They deserve support. These people are battling to save these communities.

Where are we? Squabbling over habeas corpus, which has absolutely nothing to do with crime in the street. These are people already in jail. Habeas corpus is about people already in jail. We ought to be worrying about the people who are not in jail and who ought to be in jail.

I might add, on the other side of the fence, I am going to vote for the Brady bill. We ought to have that because I do not think people ought to get guns for nuts or felons. We ought to check it out for 5 days. It is not really a big deal in doing it. I might add, while candor is in the moment, it is also not a big deal in terms of fighting crime. It is a first step. I do not even know what kind of step, because it will not change the fact that there are more privately owned weapons in America than there are by the police, Army, Navy, Air Force, Marines, National Guard, and Coast Guard altogether. If you want to try to get the police out there collecting that or managing that when they cannot even manage the rest of these crimes, then we are doubling and tripling our problems.

The first line of defense is police, because they are a symbol, and they are the force of Government authority; they are the indispensable foundation on which the life of a community becomes possible to build. Frankly, the greatest crime against disorder today, against ourselves, is the fact of what we have done to our police by not giving them the capacity to be in the community, to walk down the streets, to know who the thugs are, to be able to build relationships with people in the community, to prove to people that they are there in the moment of need, that you do not have to wait for 911 not to be busy, that you can reach these folks. And it says that society cares.

What does it say to a woman huddled in a housing project who watches us find police for Somalia or some other country, but we cannot find police for her? What does it say to her about what we care about in the United States of America, or how much we care about her? What does it say to somebody in a suburb somewhere who just heard about the teenager dragged out of a car a couple of days ago or carjacked? What does it say to them when the cops are not even able to pursue it, or we do not have the ability to pursue it?

A generation ago—which is the last time this country can be said to have truly enjoyed civic peace—there were three times as many police officers as there were violent crimes. That is exactly reversed today.

The message to any criminal is: I probably can commit this crime and not get caught. If I get caught, I probably can tie up the system long enough that I may be able to fake it out. And if I cannot do that, I may not be able to be convicted. If I am convicted, I know pretty darn well that I am probably not going to spend a lot of time in jail because they do not have enough space for me. So I am going to take the risk.

The whole concept of deterrence has been blown out of the window by our own indolence, our unwillingness to give it some impact. So we have destroyed deterrence, and in doing that, you start to rip away the core not just of the criminal justice system, but the core of the belief system of what builds community and what begins to say to people there is indeed a way to behave and a standard by which we live as Americans, a standard of expectancy about what you do and do not do. We have destroyed that.

Mr. President, I know the police are not the whole answer, because I can go through this piece by piece and give you what I think is the answer. But the police are the first place to start to send the message that we are beginning to take back our streets and that we are serious.

We could put 80,000 police on the street in 4 years if we were to adopt and put in the police corps, which we have passed before, which has been through the Senate, and we would invest in the young people of this country.

The Senator from Virginia, who occupies the chair, like many others here, put on the uniform of his country and went to serve his Nation. He came right out of college and went into the Marines and fought. No one can tell me that it would not be a good idea to take our young out of college, with the capacity to have their college paid for in return for 4 years of service here in this country as a police officer. Then they might choose to go on into life as a banker, lawyer, doctor, who knows what. But they would have invested in this country. They would understand what it means. They would be citizens with a different stake in the future of this Nation. We would have educated people. We would have given people an opportunity to serve. We would have given them a stake in their community. Most importantly, we would have created a new concept of citizenship, 80,000 cops in 4 years, 20,000 a year; cost, $5 billion for 5 years.

Mr. President, that is what will determine whether or not we are real here in these next days. I agree with the Senator from Texas. I personally would be willing to make a deal with the Senator from Texas. If he will accept creating the $12 billion and help us find that money we should be building that additional space regionally. We should be creating the capacity to not just build permanent large new institutions where the overhead burdens us forever. We have to make a presumption that if we put adequate police in the streets, if we begin to make the system work, if we pay attention to those kids who early on indicate a propensity to get into trouble—and, incidentally, talk to any DA in America. They will tell you in their communities that they can identify the troublemakers. They know who they are.

They know who they are going to be. They see their brother get into trouble. They see their father in trouble. But they do not have the ability to reach out to that kid and do something to divert that kid.

So we need to build that capacity into the system by dealing with boys clubs, girls clubs, keeping schools open in America after hours. What are we doing in the United States of America lamenting gangs, worried about the Bloods and the Crips, and we shut the doors of our schools at 4 and 5 in the afternoon. We do not have anywhere to go. We are shutting our libraries. Is it any wonder?

I suggest, Mr. President, that we were to start with those 80,000 and 20,000 on top of it, the President talked in his campaign about 100,000 police. Senator BIDEN in all of his reports from the Judiciary Committee has said 100,000 police is the starting point. But for reasons beyond the control of the Senator from Delaware, he is on the floor now with a bill for 60,000.

Let me just ask my colleagues: How can we come to the floor knowing that everyone really believes you ought to have 100,000 but we are here for 60,000? Are we going to go back home and tell what we did was necessary? Are we going to go back and say we met the need of this Nation? Impossible, when we do not even meet the level of our own rhetoric, and we are not.

Mr. President, I believe, and I think others share this, that the overwhelming cause of the kind of ugly racial incidents that have disfigured an awful lot of communities in this country is fear. I talked about that a moment ago, but it seems to me that we have to really measure that as we think about this response.

I read in the newspapers, in the Wall Street Journal, the other day Louis Farrakhan was quoted as saying that the gangs are going to play a role in the future but the Bloods and the Crips are not really directing their energy against red and blue, which is there respective colors. They are going to direct it against white, because white is the enemy, and the gangs are going to settle the score.

It is already tough enough in this country to talk about problems of race, but fear of crime, fear of stranger, fear of those you do not know, fear of the stereotype is a large component of what is dividing people in America.

I believe that if we begin to reestablish the domestic peace and order, then we can begin to break down the stereotypes, and we can begin to restore our sense of confidence in one another—so we could resume our historic march toward the fulfillment of the American promise of equality for all people. That is something the police could help to bring about in America, particularly with young Americans being part of that effort.

Moreover, I might say that police do have a proven ability to deter crime. Some people say to me if you just put more cops on the street, all we are going to do is put more people in prison. That is not true ultimately, because it has been shown where there are more cops on the street, crime goes down. There is less crime ultimately. So we can obviate the need to build lots and lots of permanent large institutions if we are responsible enough and adequately treating this issue systemically.

I asked my colleagues to sit down together, to come together to think about the adequate amount of prison space, to deal with the problem of overcrowding and deal with the problem of making sure that someone who deserves to go away goes away, and goes away for the period of time they ought to go away. But simultaneously, we need to understand that you need the other components of the system that manage that. We have components of our criminal justice system that cannot even talk to each other today.

I met with the district attorneys and the police chief in Boston the other day. They were telling me they still do not have the computer capacity to do the warrant checks to know that someone may be wanted in another State unless they do certain sort of backup check procedures for this. Here we are with supercomputers and extraordinary capacity for the flow of information, and we are not even empowering our system to hold the people we have, because we do not give them the money for the computer system, among other things.

I do not want to go on and on, except to say that we must come at this realistically. If you take the money that the Senator from Delaware, [Mr. BIDEN] in his own reports has suggested we should be spending, it is more than the $12 billion that the Senator from West Virginia is now offering us.

I am a cosponsor, and I will vote for, and I think indeed, if we can get $12 billion that will be the most significant leap we have made in years to begin to be realistic. But everybody ought to understand that is not an emergency response. We should be spending at least $5 billion a year for the next 5 years, and that should be divided between prison construction and policing so we can put 100,000 police, minimum, on the street, adequate facilities for our courts and the justice system to deal with the processing of additional personnel, adequate capacity to the juvenile system to do real diversion boot camps and other programs. And we should be dealing with safe schools, dealing with boys and girls clubs, midnight sports leagues, and the other efforts that are so critical to really changing the dynamic that has superseded most people's sense of capacity to order.

I think, Mr. President, that we ought to care enormously about reducing the total amount of crime, or about restoring order to those communities that sense today the impossibility of our ability or capacity to be able to respond to their needs.

But we should remember as we do this, Mr. President, that we are today holding 76 percent more people in our prisons than 10 years ago, and crime did not go down. That is a very important figure to focus on. With all the rhetoric of the last 8 years, the drug bill, et cetera, we have 76 percent increase in our prison population, and crime has gone up. Why? Because we did not create a systemic approach that tried to deal with the other components of the criminal justice system. We did almost nothing for gangs, for youth gangs, for kids, for the people who absolutely, predictably, will wind up being the inhabitants of the adult population because we have neglected them at that earlier stage.

Mr. President, I know the Senator from Delaware would like to do more. I know the Senator from Delaware believes that this is an emergency. I know the Senator from Delaware believes we should be spending the kind of money I just articulated, $5 billion a year, and I come back to the chart that I started with, which shows how many other things we have been willing to spend $5 billion a year for.

We spent $5 billion a year for the strategic petroleum reserve. We spent $5 billion a year for the B–1 bomber. We spent about $3.5 to $4.5 billion a year for SDI.

Are we really not willing to spend $5 billion a year to ensure the domestic tranquility of the United States of America and send a message to people in this country that we are, once and for all, serious about this issue?

I would say to my colleagues that the bills that are on the floor at this point in time, while they advance—one of them, the bill of the Senator from West Virginia is the one that now advances this more than it has been previously.

But let me just share another point that is missing.

Drug addicts. Most of the people in our prisons are on drugs or are there because of a drug-related offense. We are not testing them. We release them out into the streets of America with the same condition that they went in with.

Moreover, there are about 6 million hard addicts in America today. These are people who use dirty needles and spread AIDS. These are people who hit people over the head and rob to support their habit, that which is not supported, conceivably, by the money they get from the Government that supports them anyway. These are people who will go out and kill themselves, or become a trauma problem in a hospital, adding to the cost of hospitals anyway.

And only 20 percent of them are currently getting treated, even though the U.S. Senate voted for treatment on demand several years ago.

Again, why is that not happening more? Because we did not want to put the money there. That is the only reason.

I hope as we approach this debate, and as the rhetoric grows heated and heavy about crime, we will understand our culpability. It is our cowardice in our irresponsibility and our unwillingness to put resources into this issue.

Resources are not the whole thing. I understand that. The Government is not the whole thing. The crime problem will not be totally eliminated by virtue of this effort. But it is the place to begin. There is no question of that.

I hope my colleagues will come together and find the resources that are adequate and that we will begin by putting the police into our communities.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER [Mr. LIEBERMAN]. The Chair recognizes the Senator from Utah [Mr. HATCH].

Mr. HATCH. Mr. President, we are about to have votes on this bill. I believe that we can do that after the distinguished Senator from Texas makes her approximately 12 to 15 minutes of remarks, because she has been waiting all afternoon.

I ask unanimous consent that she be permitted to do that.

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

Mr. HATCH. After she makes her remarks, my suggestion is—and I hope the majority will go along with it—that we move immediately to vote on the Grassley-Roth-Hatch antichild pornography resolution, then allow for at least 15 minutes for the distinguished Senator from North Carolina to speak with regard to the Feinstein amendment. And there should be some flexibility. He will only give a speech. There will be no amendment. And he has some questions of me, I believe.

Then, hopefully, we could go to the Feinstein vote as soon as Senator HELMS is completed with his remarks and his questions of myself. I am not sure whether he will question Senator BIDEN, but I think he will question me.

Mr. BIDEN. If the Senator will yield, I am sure he will not pass up the opportunity.

Mr. HATCH. I think I am the one who is going to be questioned.

But that may be a way of letting our colleagues know.

What I have suggested is, Senator HUTCHISON will take 12 to 15 minutes to complete her remarks, then we move straight to the Grassley amendment, if it is acceptable to the majority, move straight to the Grassley amendment for a vote, allow Senator HELMS enough time to make his remarks and ask any questions he has. That would be about 15 minutes, but whatever it takes, and then go straight to the vote on the Feinstein amendment.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. If the Senator would yield, I think that is a positive way to approach it, as long as we do not get ourselves in the untenable position of the Senator from North Carolina not just asking questions, but once we adopt the amendment that is now an amendment in the second degree and clear it——

Mr. HATCH. I think we can get a unanimous-consent agreement that he will not have any amendments; that it will be strictly a speech.

Should we try to get that agreement?

Mr. BIDEN. Yes.

Mr. HATCH. Should I ask or do you want to do it?

Mr. BIDEN. No, you go ahead.

Mr. HATCH. Mr. President, I ask unanimous consent that immediately following the 12 to 15 minutes of remarks of the distinguished Senator from Texas [Mrs. HUTCHISON], we move to a vote on the Grassley-Roth-Hatch amendment on child pornography; that immediately following the vote on the Grassley amendment, Senator HELMS be given the floor to speak with regard to the Feinstein amendment, without any intervening amendments; and that, as soon as his remarks and questions are over, we proceed to a vote on the Feinstein amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Reserving the right to object. I do not expect to object, but I want to be sure this is agreeable to the majority leader.

Mr. BIDEN. Yes.

Mr. BYRD. It is.

I have no objection.

The PRESIDING OFFICER. Is there further objection?

Mr. BIDEN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Reserving the right to object, this does include Senator FEINSTEIN's time to respond to Senator HELMS?

Mr. HATCH. Of course.

Mr. BIDEN. I have no objection.

The PRESIDING OFFICER. Hearing no objection, that will be the order.

Under the previous order, the Chair now recognizes the Senator from Texas, [Mrs. HUTCHISON].

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. President, for the next several days we are going to hear statistic upon statistic depicting horrifying increases in crime, particularly violent crime. And we are going to engage in lengthy debates about the legal nuances of habeas corpus and minimum sentencing and parole policy.

My State certainly has statistics I can recite: Violent crime has doubled in the last dozen years; prison overcrowding and lenient parole policies result in the releases of thousands of convicts who have served less than one-quarter of their original sentences.

But these facts should not be the focal point of our debate. The only fact that matters is that Americans are frightened—frightened by what is happening in their neighborhoods, on their streets, in their schools, and in their communities.

As illustrated powerfully at the ballot box this past Tuesday, the American people want action. They do not want dry, dispassionate debate about theories of constitutional interpretation. They do not want to hear politicians talk about hardened criminals that have been victimized by society.

The American people want real action to protect families in their homes, to protect children at school and at play, and to protect the most vulnerable members of society.

Mr. President, we cannot allow the debate about this crime bill to degenerate into a litany of statistics and long sermons. We can ensure real justice for our fellow citizens only if this debate is first and foremost about the human costs of crime and the terrible suffering of innocent victims, and about how we can stop the criminals and make America safe again.

It is easy to gloss over the only daily and gruesome evidence of carnage. There are case histories in every State, every county, city, and town in the Nation. Take the recently publicized case of a Texas man who was paroled in 1990 after convictions for burglary and indecency with a child. He was charged recently in the murder of a 7-year-old little girl from Plano, TX. Every day, such sick, remorseless criminals are turned loose from prison. Is it right that unsuspecting citizens should be exposed to such risks, because their Government cannot or will not keep the criminal behind bars?

Do our constituents, our fellow citizens, expect too much? I do not think so.

Our constituents want to increase the length of time violent offenders actually serve in prison, so that those who kill and rape and brutalize cannot repeat their crimes, as did Charles Wooten, paroled in 1992 for killing and robbing two service station attendants. In July of this year, police say Wooten and an accomplice killed Wooten's father and then doused his body with gasoline and set it on fire.

The tragic, scandalous fact is that most violent offenders who are sent to prison serve only a small fraction of their sentences. According to the Bureau of Justice Statistics, violent offenders receive an average sentence of 7 years and 11 months, but they served an average of 2 years and 11 months in prison—about one-third of their imposed sentences. The convicts go free,

but innocent citizens pay the price for this kind of liberal sentence reduction.

A Texas court recently threw out a murder conviction and granted a new trial for a man for the carjack slaying of a young woman at a Houston intersection in 1990. According to his taped confession, he killed the young woman because his car was nearly out of gasoline. He was arrested in the victim's car, sitting in a puddle of her blood.

Two years ago, another criminal was released from prison, and on that very day he went to a parking lot at a shopping center in Houston, TX. He strangled my college classmate and friend, threw her in the trunk of her car, and drove it to Colorado.

On the way, he stopped, opened the trunk, threw her out dead in the field. And when asked why, he said, "I just had to have her beautiful car."

Mr. President, no body of law that permits outrages like these can be considered just. No criminal justice system that allows thugs and murderers to evade punishment and prey repeatedly on law-abiding citizens can be considered fair. And yet, we must acknowledge this is increasingly the kind of justice our system metes out—certainly not the kind of justice Americans can rely on to protect themselves, their loved ones, and their possessions, but the kind of injustice criminals can and do rely on.

In the next few days, we can do something to help. We can pass a criminal reform bill that makes our homes, our streets, and our communities safer. We can pass a bill that will make just punishment swift and guaranteed. We can pass a bill that puts thugs and murderers where they belong—behind bars.

We must take action. We must be vigilant. We must win this senseless war that is occurring on our streets. Let us put teeth in this bill and take the first step.

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

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The regular order now is to return to the amendment offered by the Senator from Iowa [Mr. GRASSLEY] numbered 1098.

Mr. BIDEN. Mr. President, I ask unanimous consent it be in order at this moment to ask for the yeas and nays on the Feinstein amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BIDEN. Mr. President, 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.

AMENDMENT NO. 1098

Mr. BOND. Mr. President, I support the Grassley-Roth amendment. There are many issues on which people of good will may disagree, but the importance of protecting our Nation's children is not one of them.

The Clinton Justice Department brief in Knox versus United States departs from the common understanding of child pornography in two different ways. First, to be considered pornography under the new standard, the material must show a child lasciviously engaging in sexual conduct. Second, the Department contends that to qualify as pornography under the Federal law, nudity or visibility of the child's private parts is required. Thus, the new standard would focus on the presence or absence of lascivious action by the child, rather than the pornographer.

This is no way to safeguard the well-being of our children from the exploitation, abuse and degradation that stems from child pornography. Children may not even understand the meaning of the word "lascivious"—but this interpretation could make them the victims of those who understand the word all too well. Under the loopholes created by the Department's new standard, children could be photographed and videotaped while sleeping or occupied so that they do not know they are being sexually exploited. Frankly, I am appalled that an administration that has often stressed its interest in children's well-being could espouse this new standard even for a moment.

American criminal law has traditionally focused on the intent of the criminal, rather than that of the victim. This is not the time to alter that tradition, when the welfare and the safety of our Nation's children are at stake.

Mr. COATS. Mr. President, I join my colleague from Iowa in sponsoring his amendment because I believe the Clinton Justice Department's action in Knox versus United States has tragic consequences for our Nation's children.

Earlier this year when President Clinton announced his nomination of Janet Reno to be Attorney General, Ms. Reno stated:

> I would like to use the law of this land to do everything I possibly can to protect America's children from abuse and violence.

Seven months later the Justice Department, which Ms. Reno heads, reversed its position on child pornography in a crucial case before the Supreme Court. This does nothing to protect our children from abuse. In fact, it leaves our children more vulnerable to abuse and exploitation.

In September, the Justice Department filed a brief in the Supreme Court which changes the standard for what constitutes pornography and provides child pornographers wide latitude in exploiting children.

In November 1991, Stephen Knox, a graduate student at Pennsylvania State University and previously convicted child pornographer, was convicted of receiving through the mail and possessing child pornography. Knox appealed his conviction to the Third Circuit U.S. Court of Appeals on the grounds that the videos did not constitute pornography because the girls featured were not nude. The court of appeals dismissed his appeal and upheld his conviction. Knox then appealed his conviction to the Supreme Court.

The tapes that Knox had in his possession contained vignettes of young girls, aged 10 to 17, wearing underwear, bathing suits, and other minimal clothing, striking provocative poses for the camera. According to the court of appeals, "* * * the photographer would zoom in on the children's pubic and genital area and display a close-up view for an extended period of time. Most of the videotapes were set to music. The films themselves * * * clearly were designed to pander to pedophiles."

Federal law makes it a crime to distribute or receive any visual depictions of minors engaging in sexually explicit conduct. The brief that Solicitor General Drew Days filed in the Supreme Court in September, in a reversal of the position held by the Bush Justice Department, argued that the conviction should be vacated because the child must be nude and engaged in sexually explicit conduct.

This interpretation of the law ignores the intent of Congress to protect children from the lascivious motives of pedophiles. Under the Justice Department's interpretation, pornography involving the most vulnerable children could never be punished because an infant or sleeping child could never engage in lascivious acts.

So, Mr. President, we have a Justice Department, supposedly concerned about protecting children from abuse, going to great lengths to make it more difficult to prosecute child pornographers.

In the debate on crime, we talk frequently about the rights of victims and the rights of criminals. The administration's reversal on this issue is another assault on the rights of victims. In this case, it is an assault on the rights of children who are most in need of our protection.

VOTE ON AMENDMENT NO. 1098

The PRESIDING OFFICER. Under the previous order, the question now occurs on amendment No. 1098, offered by the Senator from Iowa [Mr. GRASSLEY].

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced, yeas 100, nays 0, as follows:

[Rollcall Vote No. 350 Leg.]

YEAS—100

Akaka	Feingold	McConnell
Baucus	Feinstein	Metzenbaum
Bennett	Ford	Mikulski
Biden	Glenn	Mitchell
Bingaman	Gorton	Moseley-Braun
Bond	Graham	Moynihan
Boren	Gramm	Murkowski
Boxer	Grassley	Murray
Bradley	Gregg	Nickles
Breaux	Harkin	Nunn
Brown	Hatch	Packwood
Bryan	Hatfield	Pell
Bumpers	Heflin	Pressler
Burns	Helms	Pryor
Byrd	Hollings	Reid
Campbell	Hutchison	Riegle
Chafee	Inouye	Robb
Coats	Jeffords	Rockefeller
Cochran	Johnston	Roth
Cohen	Kassebaum	Sarbanes
Conrad	Kempthorne	Sasser
Coverdell	Kennedy	Shelby
Craig	Kerrey	Simon
D'Amato	Kerry	Simpson
Danforth	Kohl	Smith
Daschle	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dodd	Levin	Thurmond
Dole	Lieberman	Wallop
Domenici	Lott	Warner
Dorgan	Lugar	Wellstone
Durenberger	Mack	Wofford
Exon	Mathews	
Faircloth	McCain	

So the amendment (No. 1098) was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from North Carolina is to be recognized.

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Utah has suggested the absence of a quorum. 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. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, it had been anticipated that a colloquy would now take place with respect to the amendment by Senator FEINSTEIN, but I am advised that all of the participants are not available at this moment. I understand the Senator from Alaska wants to just make a brief statement and put something in the RECORD. Then the Senator from Illinois wants to speak on the amendment.

Then as soon as the Senators who participate in the colloquy are here, I understand we can then proceed to have the colloquy, and then vote on the Feinstein amendment.

Mr. President, I suggest that we proceed in that fashion.

The PRESIDING OFFICER. Hearing no objection, that will be the order.

The Chair recognizes the Senator from Alaska [Mr. STEVENS].

RUSSIA'S NEW MILITARY DOCTRINE

Mr. STEVENS. Mr. President, today's edition of the Washington Post reports that Russia has adopted a new, more assertive, military doctrine.

Among other details, the doctrine renounces the Soviet pledge of no first use of nuclear weapons, and exempts the armed forces from laws currently limiting the size of the Russian military to 1 percent of the nation's population.

I have long been concerned about conservative elements in the Russian military which continue to pose a significant threat to United States national security. For this reason, I offered an amendment to the fiscal year 1994 Department of Defense appropriations bill which would have denied Russia access to $400 million in so-called Nunn-Lugar moneys unless the President certified that Russia was not currently engaged in the production of new MIRV'd intercontinental missiles.

I offered this amendment after reviewing a growing body of evidence, from Russian and American sources, that Russia is continuing to modernize its nuclear arsenal.

My concern remains that while the United States provides Russia with assistance to destroy its weapons consistent with the START treaty, the Russians divert their own funds to construct more capable, new nuclear weapons that have MIRV'ed capability.

Today's news provides further evidence of Russia's intent in these matters. For a better understanding of what is motivating Moscow, I would bring my colleagues attention to a recent article in USA Today by Susan Eisenhower. Ms. Eisenhower is the director of the Center for Post-Soviet Studies, and a preeminent Russian scholar known to many in this body. I ask unanimous consent that a copy of the article be included in the RECORD. I believe this article will be very interesting to Members of the Senate.

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

[From USA Today, Oct. 18, 1993]

WATCH OUT FOR THE RUSSIAN MILITARY

(By Susan Eisenhower)

Since the constitutional crisis began in Russia more than a year ago, the West has consistently backed Boris Yeltsin, giving him virtually a blank check for dealing with his opposition. Although this may have seemed like the right course at the time, the international community could pay dearly for failing to encourage a compromise between the feuding sides.

Although the smoke has stopped billowing from the Russian White House, the question remains: What outstanding debts does Yeltsin have to the military for siding with him during the bloody confrontation?

In the course of the year-long constitutional crisis in Russia, there has been an apparent shift in Russian policy toward the other republics of the former Soviet Union. Last winter, the Russian military high command published a draft of a new military doctrine which, among other things, reserved the right to intervene on behalf of the Russian minorities in the republics of the former Soviet Union. Although it has not yet been adopted, it represents a political/military mind-set which could potentially lead to Bosnia-like confrontations.

Then, at the beginning of this year, Russia violated the security provisions of the agreement governing the Commonwealth of Independent States by declaring sole ownership of the nuclear stockpile and such important assets as the Black Sea Fleet in Ukraine and the Baikonour Space Center in Kazakhstan. By midsummer, Russia had officially and unilaterally disbanded the XIS joint command over former Soviet strategic assets.

Just months later—before Yeltsin dissolved Russia's parliament—his regime announced Russia's intention to exceed its allowable military force limit in the Caucasus, as agreed upon in the Conventional Forces in Europe treaty. Even though Turkey issued a protest against Russia's declaration, Yeltsin's foreign minister, Andrei Kozyrev, addressed the United Nations and asserted Russia's special role (and influence) over the former Soviet republics, including the Muslim countries in the south.

Within the same time frame, Yeltsin went back on his agreement to allow Poland and other Eastern European countries to join NATO. Russian military involvement also escalated in ethnic hot spots such as Moldova and Tajikistan. And, Russian military support of the Abkhaz separates in Georgia last month dealt a devastating blow to peace in the Caucasus and the fortunes of Georgian leader Eduard Shevardnadze.

These developments, and their timing, were likely part of a direct or indirect deal Yeltsin made with the military. As one Russian progressive I know told me, "Yeltsin was making his down payment to the military for their support during last week's showdown with the parliament."

We should be concerned that Yeltsin, who gained control over the country courtesy of the military, may now have to deliver on other items on the military's "wish list," including more money for personnel and weapons systems and a freer hand in the former Soviet republics. Such developments would be unpleasantly destabilizing for U.S.-Russian relations. But even more, they would be embarrassingly ironic.

In a tangible way, Washington bears some responsibility for the newfound power of Yeltsin's military.

If we had encouraged Yeltsin to compromise with the parliament—early on, while such a thing was possible—the military and internal security forces would not have been called on to weigh in and take sides in the political struggle that eventually ensued. By using the "military card"—for the first time since the early '20s when Soviet Russia used the Red Army to reconquer the non-Russian republics—Yeltsin has placed himself dangerously in their debt.

In the coming months, we will have a better idea of what the costs of our policy have been and what sum has been written on Yeltsin's blank check. But I, for one, worry that the absence of institutional frameworks will leave an opening for a long-suffering and more powerful military to redress some of its accumulated domestic and international grievances, many of which are directed at the West. In such a case, we will regret that we encouraged confrontation and not conciliation during this post-Soviet power struggle.

Mr. STEVENS. Mr. President, in this piece, Ms. Eisenhower writes that President Yeltsin owes his political survival to the Russian military. Because of this debt, she concludes that

Yeltsin may now have to deliver on a military wish list including more money for personal and weapons systems. It seems that her writing could not have been more timely.

I urge all of my colleagues to read this thoughtful and forward-looking article. It is imperative on all of us to ensure that Ms. Eisenhower's predictions do not come true.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. I thank the Chair.

(The remarks of Mr. STEVENS pertaining to the introduction of S. 1624 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Illinois.

Ms. MOSELEY-BRAUN. Thank you, very much, Mr. President.

AMENDMENT NO. 1097

Ms. MOSELEY-BRAUN. Mr. President, I would like to address brief remarks to the Feinstein amendment, the hate crimes sentencing enhancement amendment.

I am proud to be a cosponsor, with my colleague, of this legislation because it addresses the subject that troubles me very deeply. I am speaking, of course, of the growing problem of intolerance and hatred in our society, and, indeed, in the world, but specifically with regard to what happens here in America.

Who among us is not aware of recent incidents of violence directed toward minorities? In Florida, an African-American was doused with gasoline and set on fire; in Los Angeles, white supremacists plotted to bomb the First A.M.E. Church, which had been nothing but a beacon of racial tolerance and reconciliation during that city's most difficult hour.

Allan Schindler, a gay Navy seaman and a resident of my home State of Illinois, was beaten to death while honorably serving his country in Japan because of his sexual orientation.

And in Sacramento, CA, an unidentified white supremacist claimed responsibility for firebombing the home of an Asian-American city council member.

But the evidence is more than anecdotal. According to the Southern Poverty Law Center, the number of white supremacist hate groups has increased by 27 percent, from 273 groups in 1990 to 346 in 1991. The Anti-Defamation League reported 1,879 anti-Semitic crimes in 1991, an increase of 11 percent over the previous year. And the national gay and lesbian task force reported a 31-percent increase in violence against gays and lesbians in 1991 in five major U.S. cities.

Of course, Mr. President, every act of violence is reprehensible. A lot of our conversation today is directed toward having a real war on crime to stop violence based on any number of different reasons for criminal acts. But hate crimes are especially troubling, because they impact not only the victim, but the victim's entire community. When a member of a minority is singled out and targeted for a crime, other members of that community feel isolated, vulnerable, and unprotected by the law. Hate crimes send a message to all members of a community that they are not free to walk the streets, to own property, or to enjoy the fundamental rights of all Americans simply because of how they look, or what they believe, or who they are.

Throughout my career, I have worked to build broad coalitions among people of all races, creeds, and sexual orientations. I have always believed that the forces which unite us as Americans are greater than the forces that would divide us based on our differences. It is important that we act to deter those criminals who target their victims on the basis of their race, their gender, their ethnicity, their religion, or their sexual orientation. The Hate Crimes Sentencing Enhancement Act does exactly that. That is why it is such an important piece of legislation.

Finally, Mr. President, one of the arguments that was made earlier was that enactment of this Sentencing Enhancement Act singles out acts based on the motivation of the criminal, of the person who perpetrates the crime.

I will point out that there are any number of places in our criminal law where motivation becomes significant. The difference between murder and manslaughter can very well be the motivation of the actor, and the difference between an assault and an aggravated assault can very often be the motivation of the actor.

I think that it is important for our Nation to send a signal that we will not tolerate the victimization, we will not tolerate violence, and we will not tolerate crime perpetrated simply because of the race or color or ethnicity or sexual orientation of an individual.

That statement is important not only to the individual and not only to minority group members of a specific community, but I think it is an important statement for all Americans. It says that we are Americans, that we will not tolerate those who will divide us, we will not tolerate those who inject hatred and fear and intimidation based on specific ethnic and racial differences into our community.

So I am delighted to support Senator FEINSTEIN on this amendment. I want to congratulate her for her fine work in this regard.

I think that she has talked to probably every Member of this legislative body on behalf of this amendment. I want to congratulate her, and to urge my colleagues from whatever side of the aisle to support Senator FEINSTEIN in this effort.

Thank you, Mr. President.

Mr. DECONCINI. Mr. President, I rise in support of Senator FEINSTEIN's amendment to the violent crime bill, S. 1607, which directs the U.S. Sentencing Commission to promulgate or amend guidelines regarding hate crimes. I am a cosponsor of this important amendment, and I urge all my colleagues to support it.

Just last Sunday, I gave a speech expressing my concerns about the increasing incidents of hate crimes in this country at an Anti-Defamation League dinner in my home town of Tucson. Since my remarks describe in detail my views on this issue, I respectfully request that they be included in the RECORD at this point.

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

SENATOR DECONCINI ON HATE CRIMES, ANTI-DEFAMATION LEAGUE DINNER, OCTOBER 31, 1993

It is unfortunate that our struggle against racial and religious intolerance in this country is still not without violence and ugliness. We have an overriding responsibility to protect the civil liberties of our citizens by establishing policies which will prevent bias-motivated crimes.

Clearly, there is a difference between freedom of speech and the expression of bigotry through violence and hatred. The former is a right. The latter violates that right and the laws which protect it.

I am a strong supporter of the Hate Crime Statistics Act of 1990. This law provides our criminal justice system with the practical information it needs to address the serious problem of bias motivated crimes.

Specifically, this law provides for the collection of data about "crimes that manifest evidence of prejudice based on race, religion, sexual orientation, or ethnicity." The data are collected by the FBI and made available to Federal, state and local governments to help law enforcement officials document trends and develop programs to combat crimes motivated by hate.

I commend the ADL for its efforts and leadership not only in passing this legislation, but also for providing information and statistics on the occurrence of hate-motivated crimes. As we all know, none of us is immune from becoming the victim of such despicable crimes that permeate our communities. I was particularly disturbed to learn from your reports that in 1991 and 1992 you documented 1,879 and 1,730 incidents of hate crimes respectively.

With the Hate Crime Statistics Act and reporting from other respected groups like the ADL, we have a better understanding of the scope of such crimes. Tragically, there has been an alarming increase in crimes committed against individuals solely because of who they are.

To combat this problem, 46 States and the District of Columbia have enacted laws addressing hate-motivated violence. Recently, the U.S. Supreme Court ruled unanimously that carefully drafted laws that enhance sentences for those who commit hate crimes are constitutional. Since the Court's decision, the House passed legislation last month to

direct the U.S. Sentencing Commission to establish sentencing guidelines in Federal criminal cases that provide sentencing enhancements for hate crimes. My colleague on the Senate Judiciary Committee, Senator Feinstein, has introduced a similar bill in the Senate. I expect this issue will be addressed when the full Senate considers an anti-crime package as early as next week.

As the House report accompanying the Hate Crimes Sentencing Enhancement Act of 1993 states, "Violence motivated by hatred of one's race, color, religion, national origin, ethnicity, gender or sexual orientation strikes at the very heart of the American conscience. It seeks to deny our most basic freedom: the right to be who we are."

Together, we must devote our utmost attention to combating such violence. Legislators, law enforcement, courts, community leaders, and parents each have a role in this effort.

Toward this end, I have sponsored legislation to create a National Commission on Crime and Violence in America. The primary purpose of the Commission is to develop a comprehensive crime control and anti-violence plan that will serve as a blueprint for the 1990s. I am also a strong supporter of the Violence Against Women Act which creates a civil rights remedy for victims of gender based crimes.

Once again, I commend the ADL for being in the forefront of educating the public on the prevalence of hate crimes in our society. No one knows more about discrimination than those who have been victims of discrimination for most of their lives.

It is incumbent upon each and every one of us to set an example for others that anti-semitism, racism, and intolerance have no place in our multi-ethnic society. Hate feeds on ignorance and fear. By teaching our children the virtues of respect, tolerance and diversity, we are investing in a better future for all Americans.

I would like to conclude my remarks with an inspiring quotation by Franklin Delano Roosevelt that was made almost 53 years ago to this day:

"We are a nation of many nationalities, many races, many religions—bound together by a single unity, the unity of freedom and equality. Whoever seeks to set one nationality against another, seeks to degrade all nationalities. Whoever seeks to set one race against another seeks to enslave all races. Whoever seeks to set one religion against another seeks to destroy all religion."

Mr. DURENBERGER. Mr. President, I rise today in strong support of the Hate Crimes Sentencing Enhancement Act, an amendment which was offered to the crime bill by my friend and colleague from California, Senator FEINSTEIN.

As several of my colleagues have noted, it is modeled after a Wisconsin State law that was upheld unanimously by the Supreme Court last term.

A hate crime is defined as a crime in which the defendant "intentionally selects a victim * * * [or property] because of the actual or perceived race, color, religion, national origin, ethnicity, gender, or sexual orientation of any person." For a defendant to be found guilty under this amendment, the trier of fact must find that an act is a hate crime "beyond a reasonable doubt."

This legislation would direct the U.S. Sentencing Commission to increase the penalty for hate crimes by at least 3 offense levels.

I believe that increasing penalties for criminals motivated by bigotry and hatred is both reasonable and necessary to deter further attacks based on hate and prejudice. Those attacks have no place in America.

This amendment does not create new Federal crimes. It takes crimes that are already Federal and increases penalties if a jury finds, beyond reasonable doubt, that such crimes were motivated by bias.

Because this problem is national in scope and may involve the planning or carrying out of "hate crimes" across State lines, the Federal Government is justified in acting. The following statistics demonstrate that hate crimes is a problem of national proportion:

According to the most recent FBI figures, a total of 4,558 hate crime incidents involving 4,755 offenses were reported in 1991, Minnesota reported 225 total incidents in 1991.

According to the FBI, racial bias motivated 6 out of 10 hate crime offenses reported in 1991—36 percent of those crimes were committed against blacks—religious bias accounted for 2 of 10 hate crime offenses, and ethnic and sexual-orientation bias each accounted for 1 out of 10 crimes;

The klanwatch project of the Southern Poverty Law Center found that the number of white supremacist hate groups increased by 27 percent, 273 to 346, in 1991;

The National Gay and Lesbian Task Force reported a 31-percent increase in anti-gay and lesbian violence between 1990 and 1991 in five major cities: Boston, Chicago, Minneapolis/St. Paul, New York, and San Francisco;

The Anti-Defamation League's 1991 national survey of anti-Semitic attacks showed 1,879 incidents of vandalism, harassment, or violence, an increase of 11 percent over 1990.

In light of these statistics, the national scope of the problem, and the real fear among women and minorities across America about violence motivated by intolerance, I urge my colleagues to join me in supporting the Hate Crimes Sentencing Enhancement Act.

I know there are some in this body who do not want to increase penalties for crimes motivated by hatred or bias against people based on "sexual orientation." I would simply urge my colleagues to reject any amendment that would remove sexual orientation as a category under this bill.

Preliminary figures from the FBI indicate 425 total crimes motivated by sexual orientation occurred in 1991 in 32 reporting States. This represents 8.9 percent of the hate crimes reported during that year.

The National Gay and Lesbian Task Force has more complete statistics on hate crimes motivated by sexual orientation. They report that, in 1992, 311 incidents of crime motivated by sexual orientation occurred in Minneapolis/St. Paul alone.

This amendment does not extend any special privileges to homosexuals. Instead, it promotes tolerance, despite one's personal views.

I urge my colleagues to send an important message—that the Senate will not tolerate crimes motivated by bigotry and prejudice by anyone against anyone. America should be a place where we live and let live.

Mr. WALLOP. Mr. President, I voted against the amendment offered by the Senator from California to provide enhanced sentencing for offenses which are deemed to be hate crimes—that is crimes in which the defendant intentionally selects a victim or property because of the race, color, religion, national origin, ethnicity, gender, disability, or sexual orientation of any person.

My reason for opposing this amendment is simple. The fact that a crime has been committed is, to me, intolerable conduct and I don't believe that society is well served by dividing victims into categories that determine the fate of the offender. Nor is justice achieved when one victim is made to feel less protected than another because of the motivation of the attacker. I do not believe that it is more serious to be brutally attacked in New York City than it is in Wyoming where we have a smaller population with less diversity. All such violent or offensive conduct is equally reprehensible to me and therefore I oppose this amendment.

The PRESIDING OFFICER. Under the regular order, the Senator from North Carolina is recognized.

Mr. HELMS. For how long, Mr. President?

The PRESIDING OFFICER. The Chair advises the Senator that he is recognized for as much time as warrants.

Mr. HELMS. I will say to the Senate that I shall not consume over 10 or 11 minutes at the outside. I assume that I am not leaking anything when I say that I had to slip out of a CIA briefing about a matter which may be of interest to all Senators.

Mr. President, I have been in a conversation with my distinguished friend from Utah, Mr. ORRIN HATCH, and as I told him, I have grave concerns about any amendment of this sort. It is well intentioned, but I think it will not do what the proponents intend for it to do.

I know that the sponsors of this amendment have the very best intentions in offering it, and I respect them for doing what they think is the best thing to do. But sometimes the best intentions have harmful results. Discrimination is wrong, but this amendment, in my judgment, will simply make the situation worse.

My primary concern with this amendment is that we are punishing free speech. We may not like the free speech. There is a lot of free speech going on in this world and in this country and in this city that does not please me all that much. This amendment is intended to prevent discrimination, but it is extremely vague and subject to abuse. Furthermore, it will be almost impossible to enforce.

Senators may recall a young college student in Pennsylvania not long ago received national attention when, in frustration, he leaned out of his dormitory window where he was trying to study late at night, and he yelled the word "water buffalo" at a bunch of people gathered there who were making a great deal of noise. Did he commit a hate crime? I do not believe he had any such intent, but my fear is that somebody down the line may try to use this provision of law to penalize such speech.

Nat Hentoff, with whom I usually disagree, has the same concerns about this legislation. He asked the questions: Are we going too far? What about AIDS or political orientation? Even more so, what about intent?

This was in the ABA Journal in May 1993, and I am going to ask, in a moment that the entire article by Nat Hentoff be printed in the RECORD.

He says:

Those also insisting on the constitutionality of extra punishment for speech-related crimes claim that thereby a message will be sent to blacks, women, gays, lesbians, etc., that bias crimes must be punished more harshly because, as Wisconsin Attorney General James Boyle says, they are "much more harmful to the community."

That does not sound like any respect for the U.S. Constitution regarding freedom of speech.

Then he goes on to say:

Due for extra prison time is whoever "intentionally" selects the victim "because of the race, religion, color, disability, sexual orientation, national origin, or ancestry of that person."

What about age? What about my age bracket?

But the point was summarized, I think, by Nat Hentoff's quote of the president of the ACLU:

"Overly broad hate-speech law gives the Government a very powerful tool that can be—and historically, consistently has been—used against the very minority groups that it is intended to protect." But that was last year.

I ask unanimous consent that this full column by Nat Hentoff in the ABA Journal of May 1993 be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HELMS. Mr. President, back in August there was an editorial based on comments by a very fine black citizen of North Carolina, who happened to be a Member of the U.S. Congress, U.S. Representative MEL WATT. In the Charlotte Observer, there was an editorial entitled "The 'hate-crime' trap." It begins by saying:

U.S. Rep. Mel Watt has raised a troubling point about proposed Federal "hate-crime" legislation; instead of helping protect minorities who have been victims of crimes motivated by race, color, ethnicity or national origin, such laws more often have been used to prosecute blacks charged with racial motivation.

Then the editorial says:

However much we abhor bigotry of that kind, we must also abhor any attempt by the government to control even hateful thought or speech. America's founders, who had ample experience with how outrageous free speech can be, understood that regulation would be worse.

I ask unanimous consent that this editorial from the Charlotte Observer be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. HELMS. I ask unanimous consent also, Mr. President, that an article from the Charlotte Observer of August 3, 1993, headed "Watt targets 'hate-crimes' measure" be printed in the RECORD in full at the conclusion of my remarks.

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

(See exhibit 3.)

EXHIBIT 1

[From the ABA Journal, May 1993]

NO: EQUALITY AMONG VICTIMS

(BY NAT HENTOFF)

Todd Mitchell, a black convicted of aggravated battery in Wisconsin, was sentenced to two years in prison. But because the victim was white, Mitchell, under the state's "hate crimes" law, received an additional sentence of two years. (He could have been put away for three more years for having said, "There goes a white boy; go get him.")

"Does this make sense?" asks an editorial in the Washington Post.

"Wouldn't it have been just as outrageous if the assailants had beaten a black boy? Why should one victim be more precious than the other in the eyes of the law?"

Yet, as State of Wisconsin v. Todd Mitchell neared April oral arguments in the Supreme Court, the American Civil Liberties Union was supporting the state of Wisconsin. Whatever happened to its support of equal protection under the law?

Those also insisting on the constitutionality of extra punishment for speech-related crimes claim that thereby a message will be sent to blacks, women, gays, lesbians, etc., that bias crimes must be punished more harshly because, as Wisconsin Attorney General James Boyle says, they are "much more harmful to the community."

But what message is sent to all the others in the community who are attacked for no reason other than the criminal's lust for money?

Are the injuries they suffer—however painful physically and psychologically—of less importance to the community under equal protection of the law?

Then there is the actual wording of Wisconsin's enhanced-penalty statute. Due for extra prison time is whoever "intentionally" selects the victim "because of the race, religion, color, disability, sexual orientation, national origin or ancestry of that person."

What about age? (We are in the middle of a cost-benefit generational war.) What about political orientation? In short, what about R.A.V. v. City of St. Paul and the selection of only certain groups to trigger the extra years behind bars because of what they said while committing the crime?

And what about "intentionally?" Is all black-on-white crime or male-on-female crime due to bias?

BRINGING IN THE THOUGHT POLICE

And in countering the defense against such charges, what is to prevent the prosecutor from finding out what books and magazines the defendant reads, what sort of language he uses at the local bar, and what his coworkers say about what they know of his prejudices.

Those, like the ACLU, who are urging the Supreme Court to add to sentences because of bias are telling it to be sure to foreclose such abusive privacy-bending investigations.

The Supreme court, however, is under no obligation to take their prayers seriously. And if this statute is—as the ACLU admits in its amicus brief—"easily susceptible to prosecutorial abuse," why is a civil liberties organization asserting its constitutionality? Because the ACLU does not want to appear soft on racism, sexism, etc.

In many of the briefs trying to justify the legitimacy of creating this thought crime, the argument is made that unless the Supreme Court overrules Wisconsin's Supreme Court in this case, state and federal anti-discrimination laws will be at peril.

Yet, as the Supreme Court of Ohio, striking down a similar statute, noted in State v. Wynant: "Laws against discrimination in employment, housing and education do prohibit acts committed with a discriminatory motive," but "it is the act of discrimination that is targeted, not the motive."

In disparate impact cases, moreover, no discriminatory motive is necessary. And under a disparate treatment analysis, "proof of discriminatory motive can be inferred from differences in treatment. * * * Bigoted motive by itself is not punished, nor does proof of motive enhance the penalty when a discriminatory act is being punished."

In this case before the Supreme Court, the act is being justly punished, but the speech purportedly accompanying the act is also being punished. At least three state affiliates of the ACLU—Ohio, Florida and Vermont—have refused to join the national ACLU's attack on the First Amendment. They agree with what ACLU president Nadine Strossen said in April 1992 in a St. Paul symposium on hate speech and R.A.V.:

"Overly broad hate-speech law gives the government a very powerful tool that can be—and historically, consistently has been—used against the very minority groups that it is intended to protect." But that was last year.

EXHIBIT 2

[From the Charlotte Observer, Aug. 8, 1993]

THE "HATE-CRIME" TRAP

U.S. Rep. Mel Watt has raised a troubling point about proposed federal "hate-crime" legislation; instead of helping protect minorities who have been victims of crimes motivated by race, color, ethnicity or national origin, such laws more often have been used to prosecute blacks charged with racial motivation.

That's ironic. Many backers of North Carolina's hate-crime law anticipated it would be used most often in crimes against minorities where the motivation was bigotry of one kind or another. The point was to discourage the sort of bigoted behavior that has stained human relations in the South for far too long.

"Ethnic intimidation" during an assault was made a misdemeanor punishable for up to two years in jail plus a fine. And it joined the list of aggravating factors that can lengthen a sentence for committing a felony.

But the N.C. law has been used as an additional charge against blacks in several celebrated cases in Lincolnton and Gastonia. Because of that experience, Rep. Watt has opposed a federal hate crime bill pending in Congress, which expands the definition of hate crimes to include those motivated by a victim's gender or sexual orientation.

Law enforcement officials in North Carolina say the law has been applied in a colorblind way. In five instances where the law has been used since its passage two years ago, three of the cases charged black offenders with a hate crime. While that's anecdotal evidence at best, it accords with Rep. Watt's initial impression.

But there is a larger issue: Should the government be in the business of criminalizing thought? By making penalties more severe for crimes motivated by racial or ethnic beliefs, the government says that some crimes are worse because of the thought motivating them. And the government says that crimes not motivated by an objectionable idea deserve lesser punishment. Does the term "thought police" come to mind?

The law recognizes aggravating and mitigating circumstances when computing sentences. And it punishes crimes not just because they harm an individual, but because they damage the public weal. Hate crimes fit that category. But those elements of malice, intimidation and conspiracy that distinguish hate crimes don't really depend on race or religion or ethnic background. The Klan's menace was felt by both blacks and whites.

Creating a distinction in criminal law based on a belief—usually a spoken motive—slides away from punishing reprehensible conduct and toward punishment based on speech and thought. However much we abhor bigotry of that kind, we must also abhor any attempt by the government to control even hateful thought or speech. America's founders, who had ample experience with how outrageous free speech can be, understood that regulation would be worse.

The area is difficult, but the law has other tools to protect citizens from threat, intimidation, harassment. Those who have supported hate-crime legislation in the past, with the best of intentions, ought to reflect on how good intentions can come to a bad end.

EXHIBIT 3

WATT TARGETS "HATE-CRIMES" MEASURE

(By John Monk)

WASHINGTON.—Rep. Mel Watt of Charlotte is breaking ranks with the NAACP and other minority groups to oppose the so-called "hate crimes bill" meant to protect people from racial, ethnic or religious attack.

Watt says the proposed law could be used unfairly to prosecute minorities, among other things. That's because the bill cuts both ways, enabling whites as well as minorities to claim they are victims of racial attacks.

"My gut tells me this is one of these things that has good intentions that will create more problems than it will solve," says Watt, a Democrat and one of three black members of Congress from the NAACP, the Anti-Defamation League, the American Jewish Congress, the Fraternal Order of Police, the National Gay & Lesbian Task Force and the Organization of Chinese Americans, according to a statement released by the Judiciary Committee. In addition, the bill has 40 co-sponsors, including members from Jewish, Italian, African, Hispanic and Asian backgrounds.

But the 38-member Congressional Black Caucus, which could play a pivotal role in any floor vote, has yet to take a position.

Under the proposal, which would apply only to federal crimes, the U.S. Sentencing Commission would develop guidelines for increasing by one-third the sentences of people convicted of hate crimes. The bill would also give juries more say in setting the sentence.

Last week, the 35-member House Judiciary Committee approved the bill overwhelmingly despite Watt's objections.

The bill defines a hate crime as one in which "the defendant's conduct was motivated by hatred, bias, or prejudice, based on actual or perceived race, color, religion, national origin, ethnicity, gender, or sexual orientation of another individual or group of individuals."

An aide to Rep. Charles Schumer, D-N.Y., the bill's sponsor, said the bill is needed "to send a message to hatemongers that their violent assaults cannot be tolerated in today's society."

In the last dozen years, 26 states have enacted various hate-crimes laws. North Carolina, for example, makes "ethnic intimidation" punishable by up to two years in prison.

Watt, a freshman member of Congress who represents the black-majority 12th District stretching from Gastonia to Durham, says he's against the proposal because:

Many more blacks than whites will probably end up being charged under it. That's because the percentage of blacks in the criminal justice system is far greater than their percentage in the general population.

Juries would find it more difficult to reach a verdict; deciding guilt and innocence is complex enough without adding the emotion of racial or ethnic hatred.

Prosecutors will simply use the law as another bargaining chip in pressuring defendants to plead guilty.

"If you get past just a superficial analysis of the thing, it is just not a good idea," said Watt, adding he'll probably speak against the bill when it comes to the House floor as early as this fall.

A spokesman for the Anti-Defamation League, which has played a major role in developing state "hate-crimes" bills, said Watt's arguments are well-intentioned but flawed.

Juries have to deal with complex issues anyway, said Michael Lieberman, the ADL Washington counsel. And while no studies have been done, he said his group has seen no evidence so far of minorities being disproportionately prosecuted.

"If there were a disproportionate share, we would know about it," Lieberman said.

In the Charlotte area, there have been at least three publicized uses of the state hate-crimes law in the last year. Each time, blacks were charged with "ethnic intimidation" against whites. In two cases, blacks were convicted.

In June, two black Gaston County teenagers were sentenced to seven days in jail after pleading guilty to ethnic intimidation in the beating of a white teen at Gastonia's Hunter Huss High School.

Last year, six black teens in Lincoln County were convicted of the same charge after they were found guilty of targeting white people for harassment. Sentences ranged from probation to three years in prison.

The two other black House members from the Carolinas—Eva Clayton, D-N.C., of Warren County, and Jim Clyburn, D-S.C., of Columbia—have taken no position on the bill. Their spokesmen said because of Watt's opposition, both intend to give it closer study.

Watt, a liberal, has found one unlikely ally—white conservative Rep. Bob Inglis, R-S.C., of Greenville. Like Watt, Inglis says juries should focus on the crime.

"If I'm being robbed by somebody, I am robbed and it doesn't matter in the course of a robbery if he makes some statements about my race," said Inglis, a member of the Judiciary Committee. "It's bringing political correctness to the criminal justice system."

Mr. HELMS. If I may ask my friend from Utah, with whom I have already discussed this matter, did he assure me earlier that only crimes of violence will be covered by this provision if it is enacted?

Mr. HATCH. That is true, yes, crimes against persons or property.

Mr. HELMS. Either would be a crime of violence, right?

Mr. HATCH. That is right. Mere words will not constitute a crime of violence.

Mr. HELMS. So if a teenager hollers some epithet at somebody else like a politician might holler leftwinger or rightwinger, he would not be guilty of a hate crime under the provision that we are about to vote on?

Mr. HATCH. So long as that person does not commit a crime against a person or property while saying the epithet. In other words, the epithet may be some evidence that the crime that did occur was a hate crime.

Mr. HELMS. You mean——

Mr. HATCH. There would have to be some action against a person or property before the epithet would become utilizable.

Mr. HELMS. There must be damage done to a person or a person's property?

Mr. HATCH. A mere epithet alone would not result in a crime.

Mr. HELMS. We are making legislative history. The Senator is vouching for that understanding; is that correct?

Mr. HATCH. No, it is not correct. Under this provision, if a person uttered an epithet but did not otherwise commit a crime against a person or property, then this provision would not apply. But if a person utters an epithet that would be categorized as a hate crime thought, and commits a crime against a person or property, and is convicted of that crime, then that epithet can be used as evidence that this was a hate crime.

Mr. HELMS. But not if there is no harm done to a person or his property? There must be a crime.

Mr. HATCH. That is correct.

Mr. HELMS. Is my understanding correct that this provision has the main purpose of increasing the penalty imposed upon one found guilty of a crime?

Mr. HATCH. That is right.

Mr. HELMS. Would the Senator explain to me how much it would increase the penalty and who decides how much that increase should be?

Mr. HATCH. Well, the amendment would require the sentencing commission to amend its guidelines, to promulgate new guidelines enhancing the penalties for crimes motivated by hate by at least three offense levels. The amendment defines "hate crimes" as a crime in which the victim or property against which the crime is committed is intentionally selected on the basis of "actual or perceived race, color, religion, national origin, ethnicity, gender, or sexual orientation of any person."

I think there is one category left out of there—persons with disabilities. I think we should add that in there. Just to be clear about what the amendment does, it does not federalize hate crimes; nor does it create a Federal hate crimes statute.

(Mr. AKAKA assumed the chair.)

Mr. HATCH. Instead, it simply provides for enhanced penalties for existing Federal crimes if they are motivated by hate. It is estimated that an enhancement of three severity levels would on average increase sentences by one-third.

Let us say that the regular crime was a year in prison. It would probably increase it by as much as several months, just to give the Senator a rough illustration. Let me give him an illustration. For example, a Federal assault conviction, which brings with it a base offense level of 6, which translates into 0 to 6 months imprisonment. An increase of three levels to the offense level of nine would result in a sentence of 4 to 10 months.

Mr. HELMS. Is the Senator apprehensive at all that the judges will be confused by this bureaucratic oratory?

Mr. HATCH. No. It is pretty simple. Basically once they set——

Mr. HELMS. It is not simple to me.

Mr. HATCH. Once they set the sentencing guidelines, it is not very difficult to figure it out.

Mr. HELMS. Let me answer the Senator this way, if I may.

Mr. HATCH. Sure.

Mr. HELMS. Let us assume that a person is on Federal land, therefore conferring Federal jurisdiction on whatever happened on that land, and this person pushes someone. Is that an assault?

Mr. HATCH. It could be.

Mr. HELMS. Suppose he says "water buffalo." Is that a hate crime?

Mr. HATCH. I doubt it because under this statute they would have to prove beyond a reasonable doubt that it was hateful language. That is a pretty high standard.

Mr. HELMS. But there must be a crime—some harm was done to property or the person.

Mr. HATCH. If a person shoved, that is a harm.

Mr. HELMS. Pardon me?

Mr. HATCH. If a person shoved against that person's will, that is a harm.

Mr. HELMS. Suppose he just says "water buffalo"?

Mr. HATCH. This statute would not apply.

Mr. HELMS. Does the author of the amendment agree with that? I mean, I am trying to establish the legislative intent.

Mr. HATCH. Sure.

Mrs. FEINSTEIN. Excuse me. Will the Senator repeat the question?

Mr. HELMS. Yes. I will say to the distinguished Senator from California that I am a nonlawyer being a little bit technical trying to establish what is a hate crime and what is not. The distinguished Senator from Utah—and correct me if I am wrong—has assured me that unless there is violence against a person or property it is not a hate crime.

Is that the Senator's understanding?

Mrs. FEINSTEIN. That is correct. This speaks to conduct. It does not speak to expression.

Mr. HELMS. I thank the distinguished Senator.

Well, let us turn it around. I will say to the Senator from Utah, what if a group of black students on Federal land gets angry enough and pushes someone, and calls the white person a honky? Is that a hate crime?

Mr. HATCH. Well, if there is an action against a person or property, it could become a question for the jury, but they will have to prove that it is a hate crime beyond a reasonable doubt. I doubt that they could reach that level based upon that simple epithet.

Mr. HELMS. The Senator has no way of knowing what a jury is going to do.

Mr. HATCH. I have to say to the distinguished Senator that calling someone by a name is not a Federal crime. There has to be some action. Now, if someone paints a swastika on a Jewish synagogue and says an epithet at the same time, it is a pretty good indication that could have been proven beyond a reasonable doubt as a hate crime.

Mr. HELMS. I agree with that.

Mr. HATCH. I know the Senator agrees. That is a clear-cut case. It would come down to a question of fact for the judge or jury to decide as to whether the hateful remarks, coupled with the action against person or property, actually constitute a hate crime beyond a reasonable doubt.

There is that higher standard that the distinguished Senator from California has put into her amendment that makes it pretty tough to prove that offensive conduct is a hate crime unless it is accompanied by other factors that can be interpreted by the judge and jury as a hate crime.

Mr. HELMS. I say to the distinguished Senators from Utah and California, I am not trying to be difficult about this. I want to understand what we are doing. I do not want us to criminalize speech, speech that some may subjectively regard as hateful.

Mr. President, if we get to the place that we cannot fuss at umpires at baseball games, that is reductio ad absurdum.

Mr. HATCH. This may be helpful. It is my opinion—and I believe the distinguished Senator from California will agree—before you get into the issue of whether there is a hate crime, the person has to be convicted of a crime. Then the statute comes into being as to what enhanced penalties the person should have as a result of whether or not it is a hate crime. But to get to a determination as to whether or not the crime was motivated by hate under this amendment, the judge or jury is going to have to believe it beyond a reasonable doubt; the proof is going to have to be beyond a reasonable doubt. If that proof is beyond a reasonable doubt and the judge or jury says that this is a crime motivated by hate, then the severity level will go up three levels under the Sentencing Commission guidelines, which are pretty much set in concrete.

Mr. HELMS. If the Senator will forgive me, let me summarize my understanding of this point. If I understand the Senator from Utah and the concurrence with his view by the distinguished Senator from California, a crime must have been committed first?

Mr. HATCH. That is right.

Mr. HELMS. Is that right?

Mr. HATCH. That is right.

Mr. HELMS. Like mashing someone in the mouth or painting a swastika on the front of a church or synagogue, or something of that sort?

Mr. HATCH. That would be a crime.

Mr. HELMS. Then any spoken word of hate or presumed hate or alleged hate——

Mr. HATCH. Or any action that could indicate hate—

Mr. HELMS. Yes. Then?

Mr. HATCH. The painting of a swastika.

Mr. HELMS. Mr. President, a jury will decide who is right about this; is that correct?

Mr. HATCH. The judge will decide who is right about it.

Mrs. FEINSTEIN. Will the distinguished Senator from North Carolina yield?

Mr. HELMS. I yield.

Mrs. FEINSTEIN. I think the Senator is correct.

First, the crime against property or person has to occur and be proven. Second, the motive has to be proved beyond a reasonable doubt to be the race,

color, religion, national origin, ethnicity, gender, or sexual orientation of the victim.

Now, what may go to establishing the motive is the fact that if there is a firebombing in a synagogue and the swastika is drawn, clearly there the required motive is present. If there is a call from the Aryan Resistance Front that the reason they are bombing the JACL office is because they want any Japanese to be shot—which was an actual phone call made—that expression goes to making out the motive for the crime qualifying it as a hate crime.

So a jury would have to determine, first, that the crime took place, and, second, that the motivation would entitle it to the enhancement.

Mr. HELMS. I think I understand the Senator.

Mr. HATCH. Yes, I think that is correct. I agree with the distinguished Senator.

Mr. HELMS. I thank the Senator.

Mr. HATCH. I am not being the judge and jury. The way it works, there has to be conviction of a crime, and then the judge will determine whether hate was involved or the crime was motivated by hate.

Let me say there is another aspect of this, too. Sentencing enhancements under the guidelines are already in place for other really serious relevant conduct. For example, if a victim of an offense was an unusually vulnerable person due to age or physical condition, the sentencing guidelines already require an increased penalty. If the victim was a Government employee, the guidelines require an enhanced penalty.

This amendment is consistent with existing victim-based sentencing enhancement. So if there is a crime committed, the judge then can look into the facts surrounding that crime and determine whether it was motivated by hate. If the judge determines beyond a reasonable doubt—and he or she will have to make that determination—then the judge can enhance the penalties three times, 3 levels above what the normal penalty would be.

Mr. HELMS. I thank the Senator.

I would say in conclusion, Mr. President, I cannot vote for this amendment, because I think it is impinging upon freedom of speech; I wish I could enthusiastically support it, but I cannot, in good faith. I do hope that this provision will not be applied frivolously. We are in deep trouble if we move into the area where freedom of speech is diminished to any degree whatsoever.

I thank the Chair, I thank the Senator from Utah, and I thank the Senator from California.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, just one last comment about this, because I do not want to have the Senator leave with a misconception.

The constitutionality in this provision is clear. Under the Wisconsin versus Mitchell case, the Supreme Court unanimously held that carefully constructed laws providing for stiffer sentences to criminals who commit hate crimes do not violate the first amendment.

So I hope the Senator would vote for this, because, basically, this will not be a violation of the first amendment.

I might say, in that case, the Court upheld a statute very similar to what the distinguished Senator from California is doing here.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Thank you very much, Mr. President.

Senator HARKIN wished to make a comment and he is standing by.

Mr. President, while we are awaiting the Senator from Iowa, I wonder if I might just read a section from the Supreme Court opinion in Haupt versus United States, which was delivered by Justice Rehnquist on behalf of the unanimous court.

Because the statute has no "chilling effect" on free speech, it is not unconstitutionally overbroad. The prospect of a citizen suppressing his bigoted beliefs for fear that evidence of those beliefs will be introduced against him at trial if he commits a serious offense against person or property is too speculative a hypothesis to support this claim. Moreover, the First Amendment permits the admission of previous declarations or statements to establish the elements of a crime or to prove motive or intent, subject to evidentiary rules dealing with relevancy, reliability, and the like.

Mr. President, I would like very much just to thank the distinguished chairman of the committee and the ranking member. I am very pleased that Senator HATCH has joined on this amendment, making it the Feinstein-Hatch amendment, as well as a large number of other cosponsors in this body.

I think it is an important step that we are taking and so I would like to thank all concerned.

I yield to the Senator from Iowa.

The PRESIDING OFFICER. Is there objection?

If there is no objection, the Chair recognizes the Senator from Iowa.

Mr. HARKIN. I know we are operating under a unanimous-consent agreement regarding the amendment by the Senator from California.

Mr. FORD. Mr. President, I ask unanimous consent that the Senator from Iowa be allowed to speak for 2 minutes.

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

Mr. HARKIN. Mr. President, I know we are operating under a unanimous-consent agreement on the amendment of the Senator from California.

However, I have discussed an omission in the amendment offered by the Senator from California. I have discussed it with the Senator. I have discussed it with Senator HATCH and with Senator BIDEN and also with Senator DOLE.

I ask unanimous consent, Mr. President, to send an amendment to the desk on behalf of myself and Senator DOLE. This amendment would simply insert the word "disability" in the list of hate crimes that are listed in the definition. The definition covers race, color, religion, national origin, ethnicity, gender, or sexual orientation. My amendment, cosponsored by Senator DOLE, would simply enter the word "disability" after the word "gender."

Mr. President, I ask unanimous consent that the word "disability" be incorporated after the word "gender" in the definition clause of the amendment offered by the Senator from California.

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

The modification follows:

To amendment No. 1097, on page 2, line 2, after the word "gender," add the following: "disability,".

Mr. HARKIN. I ask unanimous consent that the other cosponsors of the amendment be listed.

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

Mr. HARKIN. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by Senator FEINSTEIN. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. CONRAD] is necessarily absent.

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

The result was announced—yeas 95, nays 4, as follows:

[Rollcall Vote No. 351 Leg.]

YEAS—95

Akaka	Dole	Kohl
Baucus	Domenici	Lautenberg
Bennett	Dorgan	Leahy
Biden	Durenberger	Levin
Bingaman	Exon	Lieberman
Bond	Feinstein	Lott
Boren	Ford	Lugar
Boxer	Glenn	Mack
Bradley	Gorton	Mathews
Breaux	Graham	McCain
Brown	Gramm	McConnell
Bryan	Grassley	Metzenbaum
Bumpers	Gregg	Mikulski
Burns	Harkin	Mitchell
Byrd	Hatch	Moseley-Braun
Campbell	Hatfield	Moynihan
Chafee	Heflin	Murkowski
Coats	Hollings	Murray
Cochran	Hutchison	Nickles
Cohen	Inouye	Nunn
Coverdell	Jeffords	Packwood
Craig	Johnston	Pell
D'Amato	Kassebaum	Pressler
Danforth	Kempthorne	Pryor
Daschle	Kennedy	Reid
DeConcini	Kerrey	Riegle
Dodd	Kerry	Robb

Rockefeller	Simon	Thurmond
Roth	Simpson	Warner
Sarbanes	Smith	Wellstone
Sasser	Specter	Wofford
Shelby	Stevens	

NAYS—4

Faircloth	Helms
Feingold	Wallop

NOT VOTING—1

Conrad

So the amendment (No. 1097), as amended, as modified, was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mrs. FEINSTEIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I rise to plead with the Members of the Senate to move our body along with some degree of speed. We have talked for 2 days. I suggest to everyone, we are not going to solve the crime problem by talking it to death. We have talked for 2 days and we have had two votes. The two votes, as I understand, the first one was 100–0 and the one we just had was 100–0 or thereabout.

Mr. HATCH. Will the Senator yield?

Mr. EXON. I will in a moment. It just seems to me that if we are going to address the crime bill and pass a crime bill with some amendments, we ought to begin to come to some kind of a time agreement on some of these amendments. The Senator from Nebraska has an amendment that I will offer at some time, and I will agree to a relatively short time agreement. I am pleading with the body to recognize that Thanksgiving is coming and Christmas is right after that.

Mr. BIDEN. Will the Senator yield?

Mr. EXON. And we are moving with less dispatch and speed on a very important matter to attack crime in America than I have seen before. There are many Senators seeking recognition.

Mr. LEAHY. Will the Senator from Nebraska yield for a question?

Mr. EXON. Mr. President, does the Senator want to ask a question?

Mr. LEAHY. I want to ask the Senator from Nebraska a question.

Mr. EXON. I will yield for a question.

Mr. LEAHY. I want to ask the question because I think the Senator from Nebraska is absolutely right. I think the Senator agrees with me that we seem to be adopting the Dracula rule or the vampire rule of legislation: The Sun goes down and finally the votes come up. That is about where we are.

But I think the Senator from Nebraska is absolutely right. How long does it take for each one of us to decide on these issues? We either want a crime bill or we do not want a crime bill. We either want to put real teeth into it or we do not.

I think the Senator from Nebraska is right. If we are going to go forward with this—I know how hard the two managers have worked to try to bring an agreement, but we can either operate under the Dracula rule of legislation or we can operate under time agreements. I think this is something that ought to have time agreements.

Would the Senator agree with that?

Mr. BIDEN. Will the Senator yield?

Mr. EXON. I would agree. I would simply remind him that Dracula was very active last Sunday. That was Halloween. We have carried it over evidently in the Senate.

I will be delighted to yield to the chairman.

Mr. BIDEN. Will the Senator yield?

I would like to operate under the BIDEN rule and point out to the chairman of the Agriculture Committee I am likely to get this complicated bill done faster than he does his agriculture bill. And I wish to also point out that——

Mr. LEAHY. Will the Senator yield?

Mr. BIDEN. I will not yield. I have the floor. I will not yield. There is no Dracula rule. We have been working here. We have passed four amendments, and in addition to that we have just settled, the Republicans and Democrats, something that if we stayed here and voted and let all Senators talk—God bless you, I love to hear you, and I know you are all incredibly enlightened—if we had done that, instead of what we have been doing the last 2 hours, we would not have gotten one-tenth of where we are going to get.

I have a nice Christmas surprise for you. Santa Claus is on his way. Dracula is dead. If you have patience for another 15 minutes, we will have in one fell swoop settled all amendments on prisons, all amendments on police, all amendments on funding. I am sure you will be in the Chamber talking about what a brilliant management job the Senator from Utah and I are doing.

All I ask you to do is be mildly patient for just a little while longer because we have just about settled all the major pieces of this bill.

I might point out, when we have handled the crime bill in the past, there were well over several hundred amendments. If I gave all Senators—if we agreed as a body that all of you have just a half an hour to wax eloquently on your amendments rather than try to put them in packages and deal with them very quickly, I promise you we are here well into next week. So I just beg you to be a little bit patient and by 7 o'clock Senator BYRD will be here, and he will stun you with the way in which he has been able to help put together the most significant package on crime that has occurred in the last 30 years in the Senate.

Mr. EXON. Without losing my right to the floor——

Mr. BIDEN. The Senator has the floor. That was my question.

Mr. EXON. I yield for a question by the ranking member.

Mr. HATCH. I would like to make a comment. I agree with the distinguished Senator from Delaware. We have been working for 2 days to try to get together a cohesive plan that really is the basic guts of this package, and we are very close to having it. If we have it, we hope that we will have the cooperation of everybody on this floor because it will be the most significant bipartisan anticrime package that has come down the pike I think in many years. It takes time to do it, and we are doing it. That is why we were having these votes, since we wanted to clear those away. But we are making a lot of headway, and if we just make this final last bit of headway, I think everybody in the Senate is going to be very pleased. I am happy to work with my colleagues.

Mr. EXON. I thank those Senators who have spoken.

Before I yield the floor, Mr. President, I congratulate them for the information they have just given us. I hope that the managers of the bill did not feel I was critical of them. I was critical of this body. I have been here a long time. I felt things were bogged down. I am delighted to hear that things are moving very rapidly. And so as not to further hold up the proceedings, I congratulate them for what they have done. I hope we can move as quickly as they have indicated.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, hopefully within a very few moments we will have an amendment of some consequence that has been worked on by the distinguished Senator from Utah, the distinguished Senator from Texas [Mr. GRAMM], myself, and the leader, Senator DOMENICI, Senator SASSER, and the chairman of the Appropriations Committee that will hopefully meet with the approval of the body. In the meantime, I do not intend to introduce any amendment.

By the way, when this amendment is forthcoming, arrives on the floor, and Senators have a chance to take a look at it, I hope it will generate a spirit of calm and maybe a number of our colleagues who have amendments will no longer feel the need in light of what we will present to have all of the amendments that they may have.

So I yield the floor.

AMENDMENT NO. 1102

(Purpose: To amend section 844 of title 18, United States Code, to increase the penalties for arson)

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, I do not want to frustrate the efforts of the Chairman. My amendment does not relate to guns or anything. I think it

should be acceptable. It will just take a couple minutes. I do not want to get in front of the distinguished Senator from Connecticut.

Mr. BIDEN. Can I inquire the subject of the amendment?

Mr. DOLE. It is increasing the Federal penalties for arson.

Mr. BIDEN. I think it is a good amendment. I have no objection to proceeding to it.

Mr. DOLE. I offer it on behalf of myself and the Senator from California [Mrs. FEINSTEIN]. I have not reached Senator BOXER. I have talked with Governor Wilson's office today.

I will send the amendment to the desk on behalf of myself and Senator FEINSTEIN and also Senator BOXER, if she has an interest in it.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report this amendment.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself and Mrs. FEINSTEIN, proposes an amendment numbered 1102.

Mr. DOLE. Mr. President, I ask that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 426, after line 25 add the following:

SEC. 2907. INCREASED PENALTIES FOR ARSON.

Section 844 of title 18, United States Code, is amended—

(1) in subsection (f)—

(A) by striking "ten years, or fined not more than $10,000" and inserting "20 years, fined the greater of $100,000 or the cost of repairing or replacing any property that is damaged or destroyed"; and

(B) by striking "twenty years, or fined not more than $20,000" and inserting "40 years, fined the greater of $200,000 or the cost of repairing or replacing any property that is damaged or destroyed";

(2) in subsection (h)—

(A) in the first sentence by striking "five years" and inserting "10 years"; and

(B) in the second sentence by striking "ten years" and inserting "20 years"; and

(3) in subsection (i)—

(A) by striking "ten years or fined not more than $10,000" and inserting "20 years, fined the greater of $100,000 or the cost of repairing or replacing any property that is damaged or destroyed"; and

(B) by striking "twenty years or fined not more than $20,000" and inserting "40 years, fined the greater of $200,000 or the cost of repairing or replacing any property that is damaged or destroyed".

Mr. DOLE. Mr. President, let me indicate that I just happened to be watching CNN last night. I heard the Governor of California, Pete Wilson, talking about the increase in crimes of arson at the State level. It occurred to me that much of the property that has been damaged is Federal property. We will hear later from the Senator from California about the millions and millions of dollars of damage done, and they still have not found the person or persons who may be responsible. But certainly if you turned on your television and you have seen the horror and the tragedy and the destruction, watching fires which engulfed entire communities in southern California, as the President stated, our prayers go out to the families who have lost their homes and properties.

New reports now suggest that some of the fires were set intentionally by arsonists. No doubt about it, arson is one of the most malicious and cowardly acts of violence that anyone can commit—at anytime, anywhere.

And in California, arson continues to be a major problem, causing hundreds of injuries and deaths among firefighters and civilians, and leading to millions of dollars in property loss.

According to the California State fire marshal, the total number of fire-related incidents in California declined from 1981 to 1991, dropping by nearly 50,000. But, during the same period, the number of arson crimes as a percentage of total fire-related incidents, has risen steadily.

Governor Pete Wilson has responded quickly to this latest disaster, assisting in the relief effort and proposing to amend the California State Criminal Code to increase the penalties for arson. It is my hope that Governor Wilson will succeed in persuading the California State Legislature to join in this worthwhile effort.

The amendment I am offering today will supplement the work of Governor Wilson by increasing the penalties for arson at the Federal level. It recognizes that the punishment must fit the crime—for there are few crimes as despicable as arson, and few criminals as vicious as the arsonist.

Under Federal law, any person who destroys—by fire—property used in, or affecting, interstate commerce is subject to a maximum penalty of 10 years' imprisonment and a fine of not more than $10,000. And if the arson causes injury to any person, or any public safety officer fighting the flames spawned by the arson, then the maximum penalty is 20 years' imprisonment and a fine of $20,000.

This amendment would double the maximum prison term for arson affecting interstate commerce to 20 years, and would allow the imposition of a fine equaling either the value of the property destroyed or $100,000, whichever is greater. The amendment would also double the maximum prison term for arson that results in injury to a person—raising the maximum term of imprisonment to 40 years, and increasing the maximum fine to an amount equaling the value of the property destroyed or $200,000, whichever is greater.

Some of the property that has been destroyed is owned by the U.S. Forest Service, including land in the Angeles National Forest and the Cleveland National Forest. Other property that has been irreparably damaged is owned by State, local, and county governments that receive Federal assistance.

As a result, my amendment would also increase the Federal penalties for anyone who damages—by fire—any property owned by, or leased to, any agency of the United States or owned by, or leased to, any agency of the United States or owned by, or leased to, any organization receiving Federal financial assistance.

If this amendment were signed into law today, the new maximum penalties for this crime would be 20 years imprisonment and a fine equaling either the value of the property destroyed or $100,000, whichever is greater. The maximum penalty would increase to 40 years imprisonment and a $200,000 fine if someone were injured as a result of the arson.

Mr. President, you cannot repair the damage by legislation. You cannot repair the damage done to citizens. It will be very difficult, very hard to find these people, but I think the Government can demand accountability for those who committed these malicious crimes. I think we should follow the Governor's lead in this case.

I ask unanimous consent that a fact sheet prepared by the California State fire marshal be printed in the RECORD; and also that a letter received from Governor Wilson today supporting increased Federal penalties for arson be printed in the RECORD.

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

STATE CAPITOL,
Sacramento, CA, November 4, 1993.

Hon. BOB DOLE,
Senate Republican Leader, Office of the Republican Leader, U.S. Senate, Washington, DC.

DEAR BOB: I understand you may offer an amendment to S. 1607, the Violent Crime Control and Law Enforcement Act, that would stiffen federal arson statutes.

As the entire nation has seen, wildfires set by arsonists and fueled by Santa Ana wind conditions have ripped through Southern California communities, burning over 160,000 acres and destroying more than 700 homes and structures. Preliminary damage estimates exceed $500 million and will surely increase in the days to come.

Entire communities, life savings and cherished memories for so many Californians have been reduced to ashes owing to the actions of arsonists.

Justice demands the strongest sentences for individuals whose wanton acts result in multiple injuries or in massive property damage such as we have seen in California.

For this reason, I will be asking the California Legislature to take specific steps that will send a strong message to arsonists that they can expect full and complete punishment for their actions.

I support your efforts to increase the federal penalties for arson and believe that this action at the federal level will make clear our commitment to protecting people and our determination to see arsonists locked up for as long as they are able to function and be dangerous.

Sincerely,

PETE WILSON,
Governor.

FACT SHEET—CALIFORNIA STATE FIRE MARSHAL, CALIFORNIA FIRE INCIDENT REPORTING SYSTEM [CFIRS]

Year	Total fire incidents	Total incendiary fires	Property loss	Content loss	Firefighters injured	Firefighter deaths	Civilians injured	Civilian deaths
1981	192,460	27,422	$77,467,303	$34,043,823	321	1	181	26
1982	165,471	21,607	74,065,207	32,647,329	362		179	40
1983	155,592	20,825	66,733,500	23,792,023	153		124	31
1984	174,612	22,112	85,631,422	26,325,769	192		159	15
1985	171,131	22,373	87,075,730	49,360,901	164		184	25
1986	159,700	21,607	53,456,347	45,990,566	121		207	39
1987	162,203	21,445	77,718,634	25,150,431	139		157	30
1988	168,492	21,602	91,988,091	32,494,900	169		149	21
1989	158,470	21,926	87,215,606	23,989,304	145	1	109	26
1990	154,970	22,264	101,068,635	26,562,840	125		144	21
1991	142,612	21,874	63,767,877	25,959,402	251	1	139	62
Grand total	1,606,013	245,455	920,588,354	342,311,818	2,142	3	1,725	336

Note: Dollar loss as estimated by fire department. Not all fire incident reports contain a dollar loss. Totals may differ from other reports due to updating of master file.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, thank you very much. I would like to thank the distinguished minority leader for this amendment. I am very happy to cosponsor it, and I believe that my colleague, Senator BARBARA BOXER, would be interested in joining me as well.

There is no question that the current penalties for arson are not sufficient to deter this crime. As a result of the wildfires in California, the property loss is well over $500 million, at least 217,000 acres have burned, more than 9,000 structures have been destroyed, and more than 64 people have been injured.

The damages are only exceeded I think by the human suffering—people who have lost everything they owned, and have been lucky to get out with life and limb.

Hopefully, enhanced penalties of this kind will send a signal, both in California and elsewhere, that the people of this country are not going to tolerate this kind of behavior.

So, again, I thank the minority leader. I am happy to join him.

Mr. DOLE. Mr. President, I thank the distinguished colleague from California. I would point out, as she has already underscored, over 160,000 acres have burned destroying more than 700 homes, $500 million or more in damage, as she indicated.

Surely, it will increase in the days to come. We cannot do anything about it except try to make certain that the people understand that if it happens, if they are caught, and they are tried and they are convicted, the punishment is going to be severe.

I do not know of any objection to the amendment. I know the Senator from Nebraska is going to like this. But I would like to get a rollcall vote so that there will be a strong message. I would be willing to set the vote aside and let the majority leader determine when that vote will come.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I ask unanimous consent that the vote not occur until a time decided upon by the majority leader after consultation with the Republican leader, and it may be set aside to a later time when we have other votes.

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

Mrs. BOXER. Mr. President, parliamentary inquiry: Will there be time to support the Senator's amendment this evening?

Mr. DOLE. I am happy to yield to the Senator from California.

Mrs. BOXER. Thank you very much. I want to thank the Senator from Kansas. I have been working on such an amendment myself. This will get it done early this evening. I am very pleased with his interest and his concern on an issue that is of grave importance.

The way the Federal penalties are—they range from zero all the way to the death penalty. But it is very conceivable that someone could commit arson that could result in death, and yet they would serve no time at all.

So I am very pleased with this amendment. I give it my full and strong support. My good friend and colleague, Senator FEINSTEIN, and I are delighted to join with our colleague.

I yield the floor.

Mr. DOLE. I assume the Senator would be a cosponsor of the amendment.

Mrs. BOXER. Absolutely, proudly so.

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

Mr. DOLE. I thank my colleague from California.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I rise to speak generally on the bill and on the amendment that is now the pending business, and really to respond to the statements that were made just a few moments ago by the chairman of the Judiciary Committee, the Senator from Delaware, to say that it appears that we are approaching one of those magic moments in the Senate when we truly hear the voice of the people crying out for help, in this case, crying out for protection from crime, from violent crime, which threatens the freedom and the security of the American people more than any foreign enemy that we face today.

Mr. President, the Senator from North Dakota [Mr. CONRAD] and I have been preparing an amendment to the underlying bill to increase by $1 billion the amount of money that we would send under this bill to States or groups of States to help them build prisons to hold the most violent and dangerous prisoners.

As the day has gone on, first, from the Republican leadership, I see my colleague from Texas, Senator GRAMM, offered an amendment, strong amendment, to provide more support for prison space, and found a means to finance it; Democratic leadership led by the Senator from West Virginia came in with an amendment, and what would seem inherently logical. That which too often does not happen around here is apparently happening, which is that all sides are getting together, laying aside any hint of partisanship and acting genuinely in the public interest.

I await with a real sense of pride and gratitude and anticipation the amendment apparently to be offered by the Senator from West Virginia, the chairman of the Appropriations Committee, Senator BYRD.

Mr. President, we have been focused here today on more money for prison space. All of us know that there is no single solution to the terrible problem of violent crime that so afflicts our society today. It will take a lot of separate steps to bring about a change. But it is clear to all of us in this Chamber,

I believe, and it is certainly clear to this Senator based on the conversations I have had with police, prosecutors, judges, neighborhood groups, and, corrections officials that one of the basic premises of an effective system of criminal justice is not working in our society; that is, if you commit a crime, you have some reasonable probability of being apprehended, arrested, and, if you are arrested, you have some reasonable probability of going to trial. And if you go to trial and are convicted, you have some reasonable probability of going to jail.

In almost every step in that process, our criminal justice system in America is in a meltdown. It is not working. You have seen the statistics presented earlier today and yesterday. A remarkably small percentage of those who commit crimes are actually apprehended. Of those who are arrested, a remarkably small percentage actually stand trial.

I spoke this summer to the commissioner of public safety in Connecticut. He shared some startling statistics with me. I bet they are true throughout this country. Every year in Connecticut those arrested who have the right to ask for a jury trial number between 160,000 and 200,000. How many jury trials does the Connecticut justice system have the capacity to offer every year? Two thousand.

So that means that at least 160,000 of those who are arrested on criminal charges—and remember, they are a minority of those who actually commit crimes—will ever go to trial.

The rest have leveraged, plea bargained, and gone through the revolving door back onto the streets to commit more crimes. Of that small number that is tried, and of the percentage of those who are convicted, too few end up going to jail because there is no room in the jails. The jails are painfully overcrowded.

So that is why we are talking about giving the States some help to build more prisons, to support boot camps, boot camps to take the nonviolent offenders out of the jails to release some of the overcrowding.

More money to the States and compacts of States, regional prisons, is specifically targeted on the violent offenders.

Mr. President, it is painful to say but it is obviously real, there are a group of people in our society who act without remorse, without principles, without values, without discipline, and do not care what they do to other people. They are a small number of people in our society, but they are creating havoc, fear, and chaos. Those are the people we have to target. Once we target them, investigation, arrest, try, and convict, our society must have a jail cell for every one of those.

I do not want one convicted criminal to go through that revolving door out onto the streets to terrorize us and our families, neighbors, and friends, or any law-abiding American because there is not a jail space for that person. That is what will be done with the money that the amendment before us now—and I suspect the one coming—will do.

Mr. President, the Bureau of Prisons tells us this is not just a State and local problem. The Federal prison system now holds 43 percent more inmates than it should. And at the State level—in 31 States and the District of Columbia—there are one or more prisons that are either under court order or are the subject of consent decrees to reduce prison overcrowding. My State of Connecticut is one of those States. In response to class-action suits filed on behalf of prisoners, Connecticut has court-imposed limits on the number of prisoners that can be housed in our prisons. There is such a serious bed space shortage in Connecticut in the prisons that, at times—and too many times—too many prisoners have served as little as 10 percent of their sentences. What a message to them and others who would commit crimes.

This cracks the foundation of our criminal justice system. As the Commissioner of the Connecticut Department of Corrections, Larry Meachum, told the Senate Governmental Affairs Committee:

> I think we are making a mockery out of this entire process if we tell a person he or she is going to get 5 years, and he or she ends up going out of jail after 5 months.

The solution is clear, Mr. President. Commissioner Meachum told the committee:

> If we are not going to make that kind of mockery out of the criminal justice system, then we have to provide the cells to deliver on the promise. If we are going to help the States and local governments deal with violent crime, we have to help them build new prison cells, so that prisoners will be forced to pay their full debt to society.

Mr. President, when we talk about providing more police to assist the cities and towns of our country, I have talked to some police in Connecticut who have said to me:

> Do we really need more police? We do not even have the confidence to arrest all of the people we know are committing crimes now because we do not have the confidence that anything is going to be done except take them to court, and they are going to walk right out, plea bargain, or whatever.

Mr. President, in my State—and I would guess it is true throughout the country—there are categories of crime that are serious. Car theft is one, and the word spreads. A person committing a car theft knows that there is little or no chance that there they will ever go to jail for that crime. Why? No space in the jail. What message does that send? Steal a car, commit a robbery, assault another person; do not worry about ever being sent to jail. The courts are too crowded, and the jails are full. Police actually are not arresting people they know are committing crimes because they think it is a mockery to do that, that it does not matter. They see the same kids that they have arrested yesterday out in the streets selling drugs and committing crimes again today.

I will tell you, Mr. President, I have spoken to police officials and prosecutors throughout the State of Connecticut, and they tell me time and time again that they cannot think of a serious crime that has been committed in their communities that was not committed by an individual who has gone through the criminal justice system over and over again.

So, Mr. President, I think we, in the Senate, are hearing not just the voice of the people, but the cries of the law-abiding citizens for help. We know it costs money to give that help. Yes, we need to add more penalties. Yes, we should increase the crimes for which the death penalty is offered. Yes, we need to be tougher about mandatory minimum sentences. Yes, we need appropriate gun control to stop violence. But we also need two basic things: More cops on the street and more jail cells to put the criminals into.

I believe my colleagues understand, and we will show it by what we are going to consider tonight and, hopefully, adopt. This terrible problem of crime eats at our society. It is not a Democratic problem. It is not an Republican problem. It is an American problem that cries out for an American solution. I am full of anticipation that tonight, through the bipartisan leadership of this Chamber, the leadership of the Judiciary Committee, the leadership of both parties, the leadership of the Appropriations Committee, we are going to offer that solution to the American people.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. MATHEWS). Without objection, it is so ordered.

Mr. BYRD. Mr. President, I yield to the distinguished Senator from Utah [Mr. HATCH].

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I compliment the distinguished Senator from West Virginia for playing a very, very important pivotal role here helping to bring about changes in this bill that I think are going to make the difference between whether we pass a bipartisan bill that will do a lot against crime or not.

So I ask unanimous consent that I may withdraw the original Hatch

amendment with all of the appendages thereto.

The PRESIDING OFFICER. The Senator has that right.

Mr. HATCH. I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

So the amendments (No. 1099 and No. 1101) were withdrawn.

Mr. HATCH. Mr. President, I yield to the distinguished Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I thank the distinguished Senator from Utah [Mr. HATCH].

Mr. President, I shall shortly send to the desk a modification to my amendment. When Mr. HATCH withdrew his amendment by virtue of my amendment being a second-degree amendment to his amendment, my amendment also was withdrawn; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. I thank the Chair.

I will shortly send to the desk a modification of my amendment.

I am pleased to report that we have worked out an agreement which will significantly increase our efforts in fighting violent crime throughout America. In addition to accommodating all of the programs authorized in the underlying bill, the modification also accommodates the regional prisons proposal contained in Senator HATCH's underlying amendment, the original underlying amendment, as well as increases for programs of particular interest to Senator GRAMM of Texas.

The modified amendment now before the Senate provides for the transfer of $22.268 billion to the violent crime reduction trust fund. These resources are made possible by the estimated savings calculated by the Congressional Budget Office from fully implementing the reductions in Federal employment contemplated in the National Performance Review. These personnel reductions are included in the amendment for each of fiscal years 1994–98 inclusive.

Additionally, the amendment makes the necessary adjustments to discretionary spending caps for fiscal years 1994–98 inclusive.

I will now briefly explain the funding changes made in the modified amendment. Like my previous amendment, this modification provides $12.276 billion to fully fund the underlying bill, S. 1607. In addition, the modification includes $3.720 billion to provide an additional 40,000 State and local law enforcement personnel. When added to the 60,000 similar positions provided in the underlying bill, this brings the total number of new police officers on the streets of our Nation to 100,000.

An additional $3 billion has been added for the construction and operation of regional prisons. This is the same amount that was contained in the underlying amendment by Senator HATCH and was included at the request of both Senator HATCH and Senator GRAMM. Another $1 billion has been added for the construction of jails, boot camps, and other minimum security State and local facilities.

And $500 million has been added for the construction and operation of secure facilities to house violent juveniles. These facilities are critically needed to remove some 60,000 violent, gun-wielding repeat juvenile offenders from our streets.

And, finally, $1.8 billion is included to fund the Violence Against Women Act to combat domestic violence.

Mr. President, let me just take a moment here. How long is a moment? It can be any length of time. I will take a few minutes to explain how we got where we are.

After offering the amendment in the second degree to the amendment by Mr. HATCH today, I listened to Mr. GRAMM of Texas make a speech in which he recommended that we should build additional prisons—and he suggested a figure of $6 billion—into which we would put incarcerated individuals. He also recommended the mandatory minimum sentence, and I thought that was a good idea. I think they ought to be incarcerated, and I think we ought to throw the key away, at least until they serve, I believe it is, 80 percent——

Mr. GRAMM. Eighty-five percent.

Mr. BYRD. Eighty-five percent, and we ought to have prisons in which to put these individuals.

So I came to the floor. I wanted to tell Mr. GRAMM that I felt as he did. I did call him at his office and I told him I felt the same way. But I said: "I want to talk to Senator BIDEN. He is the manager of the bill. I do not want to undermine him. I want to see how he feels about it."

I talked with Senator BIDEN. He said, "Well, I would like to see the full funding for 100,000 policemen." We provided 60,000 in the bill. "I would like 100,000."

I said, "Well, let us just do both."

And from there, we went to where we are now. There were long discussions with Senator HATCH, Senator BIDEN, Senator GRAMM, I think mainly among those three.

Therefore, we have arrived at an amendment which I am now about to offer, and I offer it on behalf of myself, Mr. MITCHELL, the majority leader, Mr. DOLE, the minority leader, Mr. BIDEN, the chairman of the Judiciary Committee and manager of the bill, Mr. HATCH, the ranking manager of the bill, Mr. SASSER, Mr. GRAMM, Mr. KERRY, Mr. DODD, and Mr. MACK.

We certainly would appreciate the cosponsorship of any other Senators, and I ask unanimous consent that any other Senators who may wish to add their names may do so.

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

Mr. BYRD. Mr. President, I thank my colleagues. I particularly thank the manager of the bill, Mr. BIDEN. I particularly thank Mr. HATCH. I especially thank Mr. GRAMM for his suggestion, which brought me to the floor and which finally led to our being where we are at this point.

I want to thank Mr. KERRY. Mr. KERRY came to my office probably 10 days ago and told me how badly needed this legislation is and how badly we need the money.

I said to Mr. KERRY, "I agree with everything you say about the need for the legislation, but we do not have the money." And I explained our situation with respect to appropriations and caps and the freeze, and he understood.

And then in the conference the other day, I made the same statement. After Mr. BIDEN and Mr. KERRY had spoken, I said, "This is all well and good. I agree with everything you said. But we do not have the money."

And then Mr. GRAMM offered an amendment 2 or 3 days ago. I voted against his amendment. I voted against his amendment. But his amendment carried overwhelmingly. I did not speak against it, but I voted against it. But his amendment carried overwhelmingly, so it made the money available.

This is an extremely serious problem and it is crucial that we do the best we can, under the tight budgetary circumstances, to deal with this problem.

And so, having said that, I think I have said enough.

I salute all those who worked so hard. And I also compliment and thank our staffs for their work on the amendment.

I urge my colleagues to support this modified amendment.

AMENDMENT NO. 1103

(Purpose: To fund the reduction of violent crime)

Mr. BYRD. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, Mr. MITCHELL, Mr. DOLE, Mr. BIDEN, Mr. HATCH, Mr. SASSER, Mr. GRAMM, Mr. KERRY, Mr. DODD, Mr. MACK, Mr. THURMOND, Mr. DORGAN, Mr. DOMENICI, Mr. CONRAD, and Mr. D'AMATO, proposes an amendment numbered 1103.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. BYRD. Mr. President, I also ask unanimous consent that no other amendments be in order to this amendment and that no other amendments be

in order until this amendment is disposed of.

The PRESIDING OFFICER. Is there objection? There being none, it is so ordered.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas [Mr. GRAMM] is recognized.

Mr. GRAMM. Mr. President, let me first say to the dear chairman of the Appropriations Committee that I have given many speeches on the floor of the Senate—some that I thought were pretty good and some that I thought were quite mediocre—but I do not know that I have given one that turned out to be more productive than the one today.

It reminds me of a poem by Emerson, titled "Each and All." It talks about the sexton ringing the church bell, little thinking that the great Napoleon hears the bell and pauses and is refreshed by it.

We have here a happy coincidence of events that I think is going to make American history on crime and punishment.

Last week, I offered an amendment that was aimed at trying to set a cap on Federal employment and enforce the President's reinvention of Government program.

How the amendment works is, it sets in law the goals of reduction in the size of the Federal bureaucracy. It has an enforcement mechanism, through the Office of Management and Budget, with a freeze on Federal hiring when we breach the employment limits. The Congressional Budget Office scored that amendment as saving $21.8 billion. That gave us the vehicle to fund this crime bill, not just to promise money, but to actually provide that money.

We have now put together a bill that is going to approach the crime problem in two ways: It is going to try to deal with the first offender—it is going to provide boot camps, it is going to try to provide drug rehabilitation facilities; and it is also going to build prisons so that violent predator criminals convicted in State courts end up serving their full term.

I think this is a very important step. This is clearly going to be the most important crime bill that we have passed in my time in the Congress and I believe it is going to be the most important crime bill that we have passed in many, many years.

This is an important step forward, because not only are we going to end up with mandatory minimum sentences for people who commit terrible violent crimes, but we are going to provide the prisons to put them in, we are going to challenge the States to have honesty in sentencing and, as a result of this bill that we are going to pass in the Senate, I believe that we are going to take a gigantic step in taking violent criminals off the streets of America.

I believe that that is truly doing God's work and America's work at the same time.

I thank the distinguished chairman of the Appropriations Committee for his leadership in making this happen. I am very proud to be a cosponsor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I should also say that Senator SASSER, the chairman of the Budget Committee, came to my office this morning and we discussed this matter. He is very supportive of this modification. I want to pay tribute to the work that he has done on this amendment and on the original amendment which I had offered earlier.

I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I, too, want to compliment the chairman of the Appropriations Committee and the majority leader—and I do not often do this—and his staff, a fellow we affectionately refer to as "Hilley" around here, who, quite frankly, came up with the idea of how to deal with the efforts that were made by the Senator from Texas, and prior to that, by the administration about cutting Federal employment and, in effect, setting up this trust fund.

Senator HATCH and I have been working on this bill for a long, long time. Let me just take 2 minutes to make several very brief points.

No. 1, the bill that all of this is being attached to is the bill that the President of the United States, through his Attorney General, and I worked out. And so the underlying bill here, is the President's bill.

But the ranking Republican, Senator HATCH, made the point to me throughout that he thought that one of the major ingredients of the Republican position on crime was to deal more with doing more about prison construction and incarceration and, quite frankly, forcing the States to have tougher standards and penalties.

That was totally consistent with what my friend from Massachusetts has been saying. I must publicly acknowledge to him that he turned out to be right and I was wrong. He and I both wanted a $20 billion-plus bill.

I was determined that I would not write a bill, have a name on it called the Biden bill, that I could not pay for. So I started off with a $5.9 billion bill several weeks ago, cutting back from a $9 billion bill I had last year. My friend came to me and said, "JOE, what are you doing?" I said, "We cannot get any more money."

And he made the point, if we hold out long enough, spoke long enough, made the case strong enough, we could change people's minds. I was, quite frankly, a bit cynical about the ability to do that.

As of yesterday, I met with the President of the United States and his staff at length, as did the Senator from Massachusetts previously. The President and his Chief of Staff and others agreed that they would work to fund a $10 billion bill. So I reintroduced a new bill, a $10 billion bill.

But my friend from Massachusetts kept saying, "No, we can do more."

And then along came the man who seems to pull every chestnut out of the fire in this place whenever you want to get something done.

I have known this for 20 years, but if you want to get it done, go to the man who knows how to do it. Go to the chairman of the Appropriations Committee, a man that I and a lot of us affectionately refer to as "Leader."

I once said to him, I would almost rather he would be leader again, because he was not nearly as powerful as leader as he is as chairman of the Appropriations Committtee.

But the truth of the matter is, every time you want to get something done, if you get him and the majority leader together on something, we hardly ever fail.

I went, along with others, to him the other day and said, "Help, boss. We need help on getting this done."

I must tell you, this exceeds my expectations. I have been arguing and fighting for 100,000 police for a long time.

There are some very, very, very, very important pieces of this legislation that the Senator from Utah has been pushing for for a long time. The Senator from Utah and I have believed all along, and our staffs, that if we were left to our own devices, we could come up with a bill that everyone would be happy with.

And so, I just want to suggest that the combination of getting the chairman of the Appropriations Committee; the chairman of the Budget Committee; the ranking member of the Budget Committee, Senator DOMENICI; the majority leader; and with the unrelenting pushing, I say affectionately, of my friend from Massachusetts, that we have come up with what I can say, without reservation, since every single major crime bill since 1974 I have either been the primary cosponsor of and/or the author of, I can say without hesitation that this is by far and away the most significant Federal effort to deal with violent crime in America that has ever been undertaken in the U.S. Senate—ever.

We are talking about something that is of major consequence.

Let me say to my colleagues who are listening back in their offices and all wondering how long we are going to go tonight and what is going to happen here, and then I will yield. I see my friend from New Mexico is seeking recognition.

It is the intention of the chairman and the ranking member, the managers of this bill, that once we agree to this amendment—which I hope we will do shortly—we will try very hard to discourage some of the amendments, because one of the things that our colleagues are going to find is much of what they have been asking for has been accommodated by this significant amendment.

I also address my colleagues who have amendments that they feel are not accommodated by this doubling of the size of the bill. I see my friend from North Dakota. He and BYRON DORGAN, his colleague, have been pushing hard to deal with violent juveniles. They have been pushing hard to deal with violent offenders in jail. This exceeds their wildest expectations, I think it is fair to say, and encompasses all they wanted.

There are others on this floor who have been equally as interested. I think when they look at this—and I encourage their staffs to look very closely at what the chairman of the Appropriations Committee is sending up on behalf of all those he named—and then, if you still think you need an amendment, please come forward.

I see my friend from California on the floor. She has a very important amendment that the President of the United States has, at her bidding, signed off on, which, after we finish this, we hope we can move to quickly. She will explain it, but it is a very significant amendment.

She came to the committee earlier, I might add, with an arson amendment that was her doing, her thinking, her idea. And I must publicly apologize to her because, in the meantime, another arson amendment was brought up. I, frankly, thought it was hers—which I frankly think is a little better than the one we had. I know she joined in the one we passed.

But there are going to be amendments like that of the Senator from California that are very important that are not encompassed within this arrangement. There are others who will have them.

So I urge all Senators and their staffs who are listening, please come to the floor. It is the intention of the ranking member, I think it is fair to say, and myself to try very hard to negotiate those amendments that we can, to have votes on those we cannot, and move this process along. Because, as my mother would say, with the grace of God and the good will of the neighbors, we may be able to, in a relatively short time, present to the American people a bill that is the first step, but a most significant step, in dealing with violence in America.

I might add one last point. The Senator from Utah and I have been working very hard for a long time on a thing called the violence against women bill. It is of significant consequence. It was going to be the third item on the agenda of this Senate dealing with violence over the next 3 months.

We have incorporated that bill in this amendment and funded it as well within this amendment. I want to pay a very high compliment to my friend from Utah who, frankly, were he not insistent upon this taking place at this time, we would not have it in the bill and we would be somewhere 2, 3, 5 weeks down the road still fighting.

I might add, through the persuasion of my friend from Utah, we have 68 cosponsors for that bill. So this ought to be something that is akin to motherhood. But it is critically important to deal with domestic violence and the absolute ravaging of women in this country as a consequence of being the victims of violent crime. So this is a very, very, very important amendment that we are about to vote on.

Again, I thank my friend from Utah for his leadership because, make no mistake about it, we would not be doing this were he not willing to do the things he did to reach an accommodation on this bill. It is a pleasure working with him.

Again, as I said, whenever we want to get something done I have learned it never hurts to go to the Senator from West Virginia and, without exception, it always helps. I have no illusions. Were it not for the Senator from West Virginia and his legislative alchemy—he is the only man that I know who can turn things from legislative dust into legislative gold.

You have done that, Mr. Chairman. I compliment you for that. The entire Senate and, more importantly—and I mean this, it sounds like hyperbole—the Nation, the Nation owes you a debt of gratitude for your ability to do those things which those of us who have only been around 20 years have still not learned how to do as well.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. BIDEN. I will be happy to yield.

Mr. BYRD. I thank him for the hyperbole. I appreciate it very much.

Mr. BIDEN. It happens to be true. Because I have, in my experience, been on the other side of a few—a few, very few—the other side of a few issues with the distinguished chairman of the Appropriations Committee, and I have always found it a less-than-rewarding experience.

There is only one other person in my 20 years I have been almost as mournful of not being with him when I have been against him, and that was Senator Russell Long. Russell Long was the only other man who, whenever I stood up on the floor to take him on, by the time he got finished speaking I felt so good and warm, I felt like calling my mother to tell her how I had done such a great thing only to find, when it was all over, I had lost. So I have learned. But I truly do, Mr. Leader, I thank you.

Again, this is a highly unusual thing to do, but John Hilley of the majority leader's staff came to me 3 weeks ago with this idea. I think this is one of those cases where there is not, in my view, enough money we could pay such a talented person to get something done.

So I thank everyone for this, and, hopefully, once we pass this amendment we can move rapidly through the remainder of this bill and present the American people with a very serious piece of legislation to deal with violence in America.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I appreciated the comments of the distinguished Senator from Delaware, but I would like the distinguished Senator from Delaware to listen to what I am about to say.

Mr. BIDEN. I beg your pardon. I am sorry.

Mr. HATCH. Mr. President, this really is a good package. It is something that everybody on this floor, both Democrats and Republicans, can feel good about because here we are providing for $8.9 billion for police. Every Republican ought to be for that. Every Democrat ought to be for that. It makes sense. If we want to do away with violent crime, let us get the police out there on the streets. People on both sides have argued for this but nobody more eloquently than the distinguished Senator from Delaware.

There is $3 billion for regional prisons—very badly needed. I think everybody on both sides of the aisle can be happy about that.

There is $3 billion for boot camps and operational grants to the States. This is a real chance for us to help the States and do something on crime.

There is $500 million for juvenile detention facilities for the hardcore juvenile criminals, something that just had to be done.

But there is one problem. In our zeal to get this done—and nobody is stronger for the violence against women bill than I—I did not realize that I was to protect the rights of the distinguished minority leader of the Senate and the distinguished Senator from South Carolina. In our zeal to put this in we have not protected their rights. They wanted it to be brought up separately. I feel very, very badly about that because I never would have done that for anything in this world.

I have asked the distinguished chairman of the Appropriations Committee if we could vitiate the unanimous-consent agreement so we could at least have that be separately debated so Senators DOLE and HELMS would be able to

bring up whatever they want to because the unanimous-consent agreement prevents any first-degree amendments.

I am very concerned about it because I want to get that bill passed, and I know the distinguished Senator from Delaware does, too. But I also do not want to trample on the rights of my esteemed colleagues, and I know they have many rights they can exercise on this matter anyway. So I hope as we discuss this we will consider maybe recognizing those desires and my failure as floor manager to protect their rights.

I did not realize that I was supposed to, and it was my fault I did not realize it, but I did not. It is certainly not the fault of the distinguished Senator from Delaware and certainly not the fault of our esteemed colleague, our great colleague from West Virginia, without whom we never would have put this together. Everybody here has to acknowledge that, but it would not be fair under these circumstances to foreclose the rights of our minority leader.

Mr. BIDEN. Will the Senator yield for just a moment?

Mr. HATCH. Yes.

Mr. BIDEN. I hope the Senator will not exercise that unanimous-consent agreement yet and give me an opportunity to meet with the Senator from South Carolina and the Senator from Kansas to determine——

Mr. HATCH. North Carolina.

Mr. BIDEN. Excuse me, North Carolina, and the Senator from Kansas to determine whether or not there is a way we can accommodate that.

Mr. HATCH. Mr. President, let me yield the floor so Senator DOMENICI and Senator THURMOND can say what they like.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I will not take a lot of time. I have a few questions I want to ask the distinguished chairman of the Appropriations Committee. When we are through with the colloquy and a few other observations I have, I may join as a cosponsor. But it does seem to me that there are a couple of things we ought to clarify and that need some explanation.

I understand the chairman is willing to do that. So, Mr. President, let me start by saying, to some extent, I share the concerns that were expressed this afternoon by the distinguished senior Senator from Oregon [Mr. HATFIELD] about creating a new off-budget trust fund. I am totally convinced and in accord with those who contend in this Chamber that violent crime prevention is a very high priority for the people of our country and for the use of our resources. I can see other priority needs, however, that are already here and that might arise from time to time in the next 5 or 6 years that are not encompassed by this amendment.

The unified budget concept with everything on budget and as few trust funds as possible, and even some of those trust funds within the budget, gives us a complete picture of Federal spending and how resources are allocated to those needs.

So I had some reservations early on of establishing this funding mechanism. I know that the distinguished chairman shares some of these concerns. I would appreciate any response or ideas that the chairman of the Appropriations Committee might have about the concerns I have just expressed.

Mr. BYRD. Mr. President, if the distinguished Senator will yield.

Mr. DOMENICI. I will be pleased to yield.

Mr. BYRD. So I may respond without him losing his right to the floor.

I understand the concerns expressed by Senator HATFIELD and Senator DOMENICI regarding the establishment of the trust fund that would be created under this amendment. However, over the past weeks, I have had discussions with the distinguished chairman of the Judiciary Committee, Senator BIDEN. He has, upon numerous occasions, mentioned to me on this floor and elsewhere that he wanted to visit with me about the crime bill and about the funding of it. He has spoken eloquently today, as have others, concerning the importance of this legislation.

These discussions centered around whether we can find a way and how it could be found to assure that the programs authorized in this bill are funded. My response to him was that one approach that could be considered would be declaring a congressional and Presidential emergency each year, but it would have to be done every year for 5 years to make the appropriations that would be authorized pursuant with this act. That would require, as we all know, that both the President and the Congress agree to spending under this act as an emergency. I would note that this emergency designation, even if approved by the President and the Congress, would increase the deficit each year.

Another method would be to rescind discretionary appropriations and apply the savings from those rescissions to offset the appropriations that would be necessary to fund programs such as those authorized in this act. But even then, I am not at all sure that we could find those rescissions and that they would be enacted by both Houses. It would also leave uncertain on a year-by-year basis how much, if any, of the authorizations contained in this act could be funded. The amount to be funded, if rescissions were required, would not be known until rescissions were enacted each year sufficient to pay for part or all of the programs authorized in this act.

Yet another method could have included making mandatory appropriations in the act itself and providing these appropriations in advance in the act. I do not like that approach. These appropriations would have been subject to a point of order under the Budget Act, as well.

While I share the legitimate concerns expressed by Senator HATFIELD and Senator DOMENICI. I determined that the establishment of the Violent Crime Reduction Trust Fund was the least offensive—the least offensive—of these various approaches and the approach that did the least damage to the existing budget and appropriations processes.

Let me add further that I would prefer not to have to set aside or reserve the funds contained in this act at all. I do not like that way of proceeding, but I consider the crime problem to be a major, major crisis in this country that is getting worse and worse every day. It is a crisis that demands that the spending provided in this act match the rhetoric.

Mr. DOMENICI. I thank the distinguished chairman for his comments, and I will ask another question.

I had a concern the other day when Senator GRAMM offered his amendment, which mandated the caps on Federal employment levels and built into law the number of full-time employee reductions recommended by the President's National Performance Review of the Government. I did not vote for it then. I said to my friend, the chairman, after the vote that I did not vote for it because I had no idea where the cuts would be made.

Mr. BYRD. Yes, I came to the Senator and said, "Why did you vote against that amendment?"

Mr. DOMENICI. Right. We did not collaborate but afterwards, we talked.

Mr. BYRD. I was wondering why he voted against it. I voted against it, and his answer made me feel all the more on that occasion I was right.

Mr. DOMENICI. So I remain concerned that the amendment which you originally offered would leave it up to the OMB to determine where the Federal employee reductions within the bureaucracy of our Nation would occur. I was worried that under the original amendment that you offered today it would totally be left to the discretion of the OMB Director.

I understand, and I hope I am correct, that the distinguished chairman has modified the amendment and that the amendment which is at the desk now solves that concern by requiring that the President include an analysis of his proposed FTE reductions as part of the budget submission each year.

Mr. BYRD. Mr. President, if the distinguished Senator will yield, I know he intends for me to respond. He will yield without losing his right to the floor. The Senator from New Mexico has described his concerns to me as recently as 2 hours ago, and earlier. I

have incorporated this language into the modification of the amendment. I appreciate his bringing this matter to my attention. I do believe that it is an improvement to the bill.

Mr. DOMENICI. I thank the Senator. I want to make one more point. I am sure the distinguished chairman agrees with me that the pending amendment violates section 306 of the Congressional Budget Act, which prohibits consideration of legislation under the jurisdiction of the Budget Committee that has not been reported by the Budget Committee.

The section 306 point of order can only be waived by an affirmative vote of 60 Senators. I inquire of the Chair, is that a correct assessment of the situation?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I thank the Chair. I want to be clear that a 60-vote point of order lies against the pending amendment, and any future legislation creating an off-budget trust fund would also be subject to the same point of order. Am I correct in that assumption?

The PRESIDING OFFICER. Since this issue is not presently before the Senate, the Chair would decline to rule on it prior to tomorrow.

Mr. DOMENICI. I thank the Chair. But I would make the point for the Senate that I think it is important Senators know we are not going to turn the budget of the United States and the appropriations process into myriad trust accounts where we predetermine upon what the subcommittees of the Appropriations Committee will spend money.

I think my good friend from West Virginia would concur that that is not the intention. Clearly, if a very similar proposal for a similar trust fund with similar effect on the appropriations process and the budget itself is brought before the Senate, we are not waiving the right to raise that point of order if we choose to waive the point of order here tonight.

I wonder if my friend from West Virginia would concur.

Mr. BYRD. I do concur, and I thank the Chair as well. I want to be clear that a 60-vote point of order does lie against the pending amendment. The distinguished Senator from New Mexico and I discussed this earlier today, and we both agreed that it did, that it would lie. And any future legislation creating, I will call it an off-budget trust fund, would also be subject to the same point of order, in my opinion.

May I say to the Senator, I will just as zealously guard the legislative process in the future as I have in the past. It was only because of the very extenuating circumstances throughout this country today, that I think cry out for solutions, that I have taken this approach.

I thank the Senator from New Mexico for being equally zealous and protective of the budget process. This, in a sense, may be something of a precedent, but it will not count as a precedent that we have to follow in the future. I believe that any future legislation to expand the size of this trust fund or the programs eligible to be funded by this trust fund also would be subject to a 60-vote Budget Act point of order.

Mr. DOMENICI. I thank the Chairman.

Mr. President, let me just take 1 more minute. I would like to ask the Parliamentarian if he could rule on this, and if he cannot I understand. If we do not vote on waiving the Budget Act on this amendment this evening, because nobody chooses to raise it—the Senator from New Mexico does not raise it—do we in any way set a precedent that we can do this in the future without waiving the point of order?

Mr. BYRD addressed the Chair.

Mr. DOMENICI. Or will failure to vote on it be construed to be a waiver?

Mr. BYRD. I know the Chair will respond. Before the Chair responds, may I say a word.

Mr. DOMENICI. Surely. Absolutely.

Mr. BYRD. The Chair cannot rule on this because no point of order has been made. Consequently, he cannot issue a ruling. The Chair can respond to a parliamentary inquiry from the distinguished Senator from New Mexico, and while that responds to a parliamentary inquiry, it does not carry the weight of a ruling, at least it does sometimes provide guidance for both the Chair and any Senator.

Mr. DOMENICI. I thank the Senator. I apologize to the Chair and Senators for not having raised my question by way of a parliamentary inquiry. I should have done that. I thought I did that without stating the proper words, but I believe the chairman is stating that properly. So if you would convert my language to a parliamentary inquiry as to whether or not anything is waived if we proceed on this amendment without a vote.

The PRESIDING OFFICER. In the opinion of the Chair, if a point of order is not raised today and the issue is not joined, the issue remains an open question.

Mr. DOMENICI. Mr. President, I wish to ask unanimous consent that I be added as an original cosponsor and thank the distinguished chairman of the Appropriations Committee for the work that he has done, and all others who have put this amendment together.

I think it is historic. From my standpoint, as money is saved from reducing the work force of the United States, I thought maybe we would salvage some of it for deficit reduction. But as I looked at it, I feared we would lose that battle, and it would be spent. As a consequence, I join in saying if we are going to spend it, we probably ought to spend it for the most serious domestic issue in our country.

I yield the floor.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. Without objection, the Senator will be added as a cosponsor.

Mr. MITCHELL. Mr. President, I am proud to cosponsor, along with Senators BYRD, BIDEN, SASSER, HATCH, DOLE, GRAMM, and MACK this compromise amendment to the crime bill.

The most important fact about this amendment is that it guarantees that what the Congress does about crime will amount to more than words—that it will lead to direct action to reduce the violence that plagues too many of our neighborhoods.

This amendment will assure that the crime bill we pass will be funded. It creates a Violent Crime Trust Fund into which savings from the executive branch personnel cuts will be deposited to pay for the provisions of the crime bill.

That means that we will have available, over the next 5 years, $21 billion in the trust fund for crime-fighting programs to respond to one of the most urgent national problems that affect Americans today.

The amendment will fund 100,000 additional police for our Nation's cities and neighborhoods.

It will provide $3 billion for regional prisons to help the States alleviate overcrowding in State prisons and the resultant too-early releases of violent offenders. It will provide $3 billion for boot camps to house nonviolent, first-time offenders, which will free up additional State prison facilities for those who must be separated from the society for long periods of time.

It will provide $500 million to fund secure community-based facilities for violent juveniles, those who are not suited to community-based facilities, and those who are repeat violent offenders.

The amendment encompasses a view of crime control based on more effective response by police and more stringent incarceration for violent offenders to restore the sense of personal safety and security that our society has lost.

This is a bipartisan amendment. It enjoys strong support from the chairman and ranking minority member of the Judiciary Committee. It has the support and, indeed, much of the leadership of the Appropriations Committee chairman, and it deserves the enthusiastic support of all Senators.

I urge my colleagues to vote for this amendment, so that we can lay the foundation for a crime bill which will deliver what we promise: More police, jails for longer sentences, fewer violent repeat criminals on our streets, and safer neighborhoods for the law-abiding people of America.

Mr. THURMOND. Mr. President, I rise in support of the pending amendment on prisons which has been worked

out by the chairman and ranking member of the Judiciary Committee with the able assistance of Senator BYRD, our President pro tempore.

Without doubt, there is a critical need for additional prison space across the Nation. According to the Department of Justice, there are more men and women in State and Federal prisons than ever before. The Bureau of Justice Statistics reports that the inmate population on June 30, 1993 was 925,247. A number of States have parole systems that release prisoners before they have served their full sentences. Other States have early release programs—either on their own or pursuant to court orders—that are specifically designed to keep down their prison populations. As a result, crimes are being committed by prisoners released early that would not have been committed if the prisoners had remained in prison for the duration of their sentence.

It does little to arrest, prosecute, and convict violent offenders only to see them prematurely released because of prison overcrowding. As Georgia's Democrat Attorney General Michael Bowers stated, and I quote,

All of the police officers in the world are not going to make a difference on the crime situation until you provide a place to put the criminals. Unless you do that, this is a waste of time.

Mr. President, adequate prison space is a critical link in the State criminal justice system. We must address the problem of early release of violent offenders due to a lack of prison space. I am pleased that we have been able to reach agreement with our Democratic colleagues to provide badly needed funding for regional and State prisons. A vital provision within this compromise will encourage States to adopt greater truth-in-sentencing laws to ensure that violent offenders serve their time. When law enforcement does its work arresting violent offenders, it will ultimately make little impact on crime if we have so little prison space that convicted offenders are put back out on the street well before they have completed their sentences.

This amendment will help the States close the revolving prison door for violent offenders. This compromise will provide $6 billion for construction, maintenance, and operation of regional and State prisons and jails. Additionally, this funding will incorporate the distinguished chairman's proposal on boot camps and other alternative sanctions. Further, we have reached agreement on funding for putting more police on the street to continue the fight against the violent predators.

I want to commend the chairman and ranking member for their bipartisan efforts on this amendment. With this type of cooperation, we should soon be able to complete action on the comprehensive crime bill and meet our responsibility to the American people. I encourage my colleagues to support this amendment.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I ask unanimous consent that I be allowed to join on the pending Byrd amendment as an original cosponsor.

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

Mr. CONRAD. Mr. President, maybe I could be permitted to just make a brief comment and to thank the President pro tempore, the chairman of the Appropriations Committee, for what he has proposed in this amendment.

Mr. President, if I might just say that earlier today I had been prepared to offer an amendment to offer a substantial increase for prison construction so that we might assure the American people that the most violent repeat offenders would have to serve 85 percent of their sentence, and that we would have the facilities to allow that to happen.

Mr. President, I am extremely pleased that in this Byrd amendment, the truth-in-sentencing provision is included, that the money to make certain that we have the facilities to house those prisoners is included; and, in addition, another amendment that I was prepared to offer after having worked closely with the Judiciary Committee over a number of days to provide secure facilities for violent juveniles.

We were talking about a funding level of $100 million or $200 million. With the Byrd amendment, that has been raised to $600 million.

Mr. President, I believe that is going to make a difference in this country, a difference for the better, something that is desperately needed both in terms of violent juveniles and in terms of those who are violent repeat offenders.

This is a leap forward from where we started the day. I think all those involved, the chairman of the Judiciary Committee, Senator BIDEN, the ranking member, Senator HATCH, and the chairman of the Appropriations Committee, are to be publicly commended and thanked for their excellent work.

I also, Mr. President, would like to take a moment to salute my colleague from Massachusetts, Senator KERRY, who so aggressively has pursued additional funding so that this crime bill would really make a difference in the lives of people; so that it would not just be a cosmetic bill, it would be a bill that would actually make a difference in peoples' lives.

I have been in meeting after meeting, hour after hour, with the Senator from Massachusetts, in which he made very clear how much he wanted to see 100,000 additional police, and not done in some cosmetic way, not done in some clever way that made a good press release, but in some way that actually delivered on the promise.

Mr. President, I believe this amendment goes a long way toward doing that.

I want to again publicly thank all those who have been involved.

I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I begin by thanking my friend from North Dakota. If you are ever in one of these fights where you are looking to this place to do something real, you want to have the Senator from North Dakota with you in that effort. He has pushed this as hard as anybody. I am very appreciative for his comments, and especially for his support.

I came to the floor earlier today, and have been pushing a number of different people over the course of the last weeks. I would like to say that what we are about to do, if indeed we are, and I hope we are, is real. And it is very significant.

This is such a quantum leap from where we were a few hours ago, and certainly from where we were just a week ago, that you really kind of have to pinch yourself.

The person who has provided this incredible coup is indeed the President pro tempore, the distinguished chairman of the Appropriations Committee. I think all of us understand that if he did not believe this ought to happen, and that if he did not believe there was a way to make it happen, this would not be happening.

I think that it is a tribute to the way that he listens, I might say. I know when I went to visit him a week ago, there is much that he has on his mind. But as he always does, he meets with junior Members who ask for meetings. I knew that even though he told me he did not quite know how we could do this, I knew from his look and from the time he gave me and the concern he expressed that if there was a way, the Senator from West Virginia was going to try to find it because he understood.

I think that he deserves just enormous credit for this because this is really, in all the years I have been here, the most real and significant response to what is a very complex and often contentious and sometimes too partisan effort to try to deliver something real to the American people.

Today, presuming we move forward in these next moments—and I presume that we have broken down that partisanship—we are about to take the step which is an enormous downpayment on protecting and providing for the domestic tranquility and security of this country.

So I really do salute the distinguished President pro tempore. I also want to say that Senator HATCH and I met this morning, sort of by happenstance, on the Fox Morning Network,

where we both had opposing views on this bill. And we expressed them. At the end of that, we had a conversation that lasted about 20 minutes, or half an hour, in which we sort of unraveled the differences but found common ground, and we both expressed a sense that we might be able to find something that was a legitimate and important compromise in the course of this bill.

I never anticipated it would happen in the same afternoon after that conversation. But thanks to the seriousness and purpose which has been, really, I think, catalyzed by the Senator from West Virginia, all parties have come together, and we are poised to do something that is not insignificant by any sense of the word.

I also want to say that as good as this is, I do not want to be the skunk at the picnic. There is more to be done. There are schools yet to be kept open; there are kids who are still going to need programs; there is an enormous amount to make up for.

But this is a real step. This is not cosmetic. This is not rhetorical. This is not something that is press-release oriented. And this will, if we follow through on it through the appropriations process, as I think the distinguished President pro tempore has guaranteed through the structure of it, this is going to make the difference.

I really thank him. I thank the distinguished Senator from Delaware and Senator HATCH for helping to get us to this moment.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. KERRY. I yield.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his extremely charitable and gracious words. I thank him even more so for his concern, for his zeal, and his dedication toward doing something that is really effective in dealing with the terrible problem that confronts this country.

He has been an articulate spokesman on this subject matter. And he has worked long and hard. That is easily to be discerned by listening to him as he quotes figure after figure after figure, and fact after fact. He has made this a very serious study. I compliment him.

I also join him in complimenting Senators on both sides of the aisle in making this a true bipartisan effort to deal with the serious problem.

The criminal, or the would-be criminal, or the about-to-be-criminal never stops to inquire as to whether or not it is a Republican or a Democrat who is carrying the wallet, who is about to become the victim. The criminal knows no partisanship in that regard, and he knows no party, whether it is an Independent or an individual that has no party at all. That does not cross the criminal's mind. And it should not cross ours when we are dealing with this very serious problem.

I was the chairman of the District of Columbia appropriations bill for 7 years, the longest that anybody has been the chairman of that subcommittee in this century; and the very first time I went out with the police, we visited the scene of a homicide, and I will never forget that sight. But things have grown progressively—I must use that word—progressively worse in the intervening years, from a time when—who would have ever thought that the Mayor of the District of Columbia would be asking for the National Guard. This is our Nation's Capital.

I thank the distinguished Senator for his efforts and for his good work.

I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. LEAHY). The Republican leader is recognized.

Mr. DOLE. Mr. President, I understand they are now working on a rather large package of an amendment, or a large amendment, and while some of us were temporarily off of the floor, somebody had gotten consent that no further amendments to this amendment be in order. At the appropriate time, when the managers are back on the floor, I will ask that that either be vitiated or that we have some understanding, because there was a lot of material included in this amendment—not the amendment of the Senator from West Virginia—which some of us had a direct interest in and were not contacted about.

I do not think anyone on either side would appreciate that happening to them. I do not appreciate it happening to me. So either we will be able to offer amendments, or we will work it out, or we will not be voting for a while.

Mr. BYRD. If the Republican leader will yield. It was I who got the request. I had no knowledge that the distinguished Republican leader had an amendment or that he had a problem. I put his name on this amendment without his asking me, even.

Mr. DOLE. On your amendment, that is fine.

Mr. BYRD. I thought it was this amendment we are talking about.

Mr. DOLE. No. It is on domestic violence, and it has some differences.

Mr. BYRD. But it was I who asked that there be no amendments to the amendment and that no other amendments be disposed of prior to the disposition of this amendment. I did not know anything about the Republican leader's problem.

Mr. DOLE. Maybe we can resolve our differences. The Senator from Delaware has indicated an interest in doing that. I have not discussed it with the Senator from Utah. If not, maybe we can take off the other part.

Mr. BYRD. I am sorry if I discommoded the leader. I did it borne of the knowledge that I have gained in this United States Senate for many years, that after we have worked on an amendment of this kind for so long and drawn both parties together, and we come together on a vital amendment, I have long ago learned to do this to protect it.

Mr. MITCHELL. Might I ask a question of the chairman and Republican leader? Was not the agreement cleared by Republican Senators?

Mr. DOLE. It was cleared by the managing Republican, Senator HATCH.

Again, I think there was no problem with the amendment Senator BYRD offered earlier. I am happy to be a cosponsor of that. I think it was agreed to somewhere to add another title called "domestic violence," and we do not have any problems with most of it, because we have been working on it together with Senator BIDEN in a bipartisan way; but we have a problem with two or three issues that we are now trying to resolve. Otherwise, we can move that off and vote on the Byrd amendment.

Mr. BYRD. While the Senator has the floor, if I may say to the majority leader, the request that, for the moment, shuts out other amendments was mine. I did not clear it with anybody. I simply sought to protect the amendment. So that was my doing. But as to the content of the amendment, I have no problem with the domestic violence part, whatever can be worked out on that.

Mr. MITCHELL. Mr. President, the point I wanted to be clear on, so there is no misimpression here, is that an agreement was entered, without the knowledge or participation by Republican Senators, dealing with——

Mr. DOLE. One Republican Senator in this case, which maybe should suffice, but in this case, it may not.

Mr. MITCHELL. As the Republican leader knows, it is a common practice. We have a manager of the bill on either side, and the Democratic manager is responsible for notification and clearance with Democratic Senators, and the Republican manager is responsible for notification and clearance with the Republican Senators. Obviously, we cannot go around and clear with 44 individual Republican Senators every discussion and agreement made between the managers.

Mr. DOLE. I do not have any quarrel with that. In this case, we registered our objection, even though we were not on the floor, that we had a problem—not with the underlying portion of the Byrd amendment, but with adding the domestic violence title to it. We conveyed that, and before I could get back, consent had been obtained. We hope we can resolve it.

Mr. MITCHELL. I am sure we can. I do not think we can do it without the managers, though. It seems to me that the two people most involved are not here. So I do not think we should take any action to alter the current status until the managers are here, the people who are most directly involved and are responsible for handling the matter.

Mr. BYRD. I also say that the distinguished ranking manager, Mr. HATCH, came to me and asked me to vitiate the request I made. I said I will not do that. So he did try. I assure the Senator that I was not trying to keep out any particular amendment of the Republican leader. I knew nothing about that.

As I said, if we vitiate this, who knows how many amendments there will be. So I will not vitiate it. But I am happy to be a party to working this out, if I need to be, when the two managers return.

Mr. DOLE. I just indicate that I strongly support the efforts worked out on a bipartisan basis, led by the distinguished Senator from West Virginia, because, in my view, we will have the money for regional prisons, and the States can only send their most violent criminals there if they adopt truth-in-sentencing laws. We think that is a big, big step forward, as discussed by Members on both sides of the aisle throughout the day. There is certainly no problem with that.

I hope and understand that we may be able to resolve it. We have submitted a list of things we think should be in the domestic violence section. If that can be resolved, it is fine with me. If not, I hope we can work out a way to set that aside and vote on the major amendment.

I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MITCHELL. Mr. President, it is obvious that we cannot proceed without the managers because whatever understanding led to the current situation was between them. I think if there has been an error it would be compounding it now for us to take action without notification to and consent by the managers.

I think they are going to be here shortly. I think it is best that we have a brief quorum as we try to resolve this.

Mr. LEVIN. Mr. President, I have a question of my friend from West Virginia.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, if there is no other comment after that, I would put in the quorum call if that would be all right.

Mr. President, I wonder if my friend from West Virginia would answer a question.

First, let me compliment him and others who have worked this out. It is a very critical need we have in this country for many of the items that he covers. I as always am absolutely amazed at what the Senator from West Virginia is able to achieve both on this floor and off the floor. I commend him for it. I think it is an important step that takes us here. I do have a question as to how this would operate.

As I understand the mechanism in the amendment, a trust fund would be set up and money which results from the savings from reduction in personnel would go into that trust fund. That trust fund could only be used for two purposes. One would be the purpose as set forth in the amendment and, if not used for that purpose, then for deficit reduction.

Mr. BYRD. No.

Let me say it this way: This guarantees that the normal appropriation process will go forward. The money will be in the trust fund. But the President will send up his budget. That budget will come to the Appropriations Committee in each House. The subcommittee, which is chaired by Senator HOLLINGS with the ranking member being Mr. DOMENICI, will conduct hearings on that budget request, as in all other cases.

Then the Appropriations Committee will appropriate such moneys as it finds, in its wisdom, should be appropriated to meet the requests, or the subcommittee may recommend that moneys be spent under the general rubric of dealing with violent crime and violent criminals in some other way. But the money is put aside for this specific purpose——

Mr. LEVIN. OK. I understand.

Mr. BYRD. To deal with violent crime and violent criminals.

Mr. LEVIN. I follow that. The money that is in this trust fund that is created, as I understand it, will be reduced from the cap that we have for discretionary spending for that; is that correct?

Mr. BYRD. That is correct.

Mr. LEVIN. If, for instance, there is, let us say, a cap of $500 billion for discretionary spending for the year 1994, which is approximately right, and if there were, say, $6 billion in this trust fund that year for this purpose, the cap for discretionary spending would be then reduced to $494 billion?

Mr. BYRD. It would be, because otherwise we would be increasing the total fund over and above the cap.

Mr. LEVIN. I understand that. What is the outcome of that and the effect of that?

Mr. BYRD. The outcome will be to use the figure the distinguished Senator used, I believe, $501 billion.

Mr. LEVIN. Say, $500 billion.

Mr. BYRD. Yes.

Mr. LEVIN. It is $500 billion, minus $6 billion.

Mr. BYRD. We will not be increasing there or lowering that. We will be lowering the cap, but we will be putting the amount by which it was lowered into the trust fund. So it will end up in the same amount as was in the cap.

Mr. LEVIN. I understand that.

If I could just ask one more question: Is not the effect of that, then, that we should all understand that there would necessarily be $6 billion less for other discretionary spending?

Mr. BYRD. The Senator is exactly correct. He is precisely on the point.

I want to say again, as I said earlier, I do not like to use this approach. I do not like to use it, but we are keeping it within the appropriations process. Otherwise, I felt that if we did not follow this approach, we would not only be not dealing as best we can with one of the most serious problems, if not the most serious problem in this country, but we would also be leaving that money, which was the subject of the amendment offered just a few days ago by Mr. GRAMM of Texas, on the table for other amendments.

My concern was that others might offer amendments, which would carry, which would appropriate moneys in an authorization bill because the source of money was there. And the necessity is so great here that if a Member offered such an amendment—I will say to the leader I am going to be very brief—I want to be in a position to maintain the control of that money through the appropriations process.

I was fearful that if an amendment were offered to appropriate that money, which is hanging out there, and appropriate it in an authorization bill, we would create a problem.

Also, there might have been an attempt to authorize and appropriate it, but not reduce it from the caps, which would mean that we would be increasing the cap. I do not want to increase the cap. I do not want to go above the caps we already agreed in the budget resolution. I do not want to go below them. I do not want Members to offer amendments that will use up funding or lower the caps, because that takes it away from the Appropriations Committee to use for discretionary purposes, which could mean defense or domestic discretionary.

Mr. LEVIN. I thank my friend.

I think it is important that we understand the full implication of what we are doing, and they conclude that there will be, under my hypothesis, $6 billion less in discretionary spending for other discretionary programs. I think we should be aware of that, in addition to all the other things that we are accomplishing or doing or effectuating in this amendment.

Mr. BYRD. The Senator is preeminently correct, and I thank him for emphasizing that point.

Mr. LEVIN. I thank the Senator.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MITCHELL. Mr. President, in this brief period when our colleagues are attempting to work out a problem recently mentioned, I want to take this opportunity to introduce with Senator DOLE the implementing legislation for the North American Free-Trade Agreement.

(The remarks of Mr. MITCHELL, Mr. DOLE, and Mr. PACKWOOD pertaining to the introduction of S. 1627 are located

in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, I would like to return to the amendment that has been offered by the distinguished Senator from West Virginia, Senator BYRD, and express my support for what he has been able to achieve in what is a remarkably short period of time.

Last August, I had occasion to travel to Southeast Asia. One of the countries that I visited was Singapore, which one of my colleagues properly characterized as an example of Plato's "Republic," where wise leaders organize the people and control much of their lives.

At the top of that leadership was a man named Lee Kuan Yew, who resigned as Prime Minister back in 1991, but still sits, I think, as the premier intellectual force behind that country's society.

Senator ROBB had preceded my arrival in Singapore by one day and, upon my arrival, told me that Lee Kuan Yew was bleak and pessimistic, about the future of the United States.

When I had occasion to meet with Minister Lee, I asked him if he was going to quote from Gibbon's "Decline & Fall of the Roman Empire." He quickly noted that the United States, of course, has never been an empire.

I encouraged him to repeat some of the conversations he had the previous day as well as his pessimism about the Western World.

At the conclusion of our meeting—and I will paraphrase his statements, he told me that the United States has been in a period of decline for only 25 or 30 years. That particular fact stuck in my mind, because we can go back 25 or 30 years, to the period of 1960 or so, and reflect back on those days and what life was really like.

I recall growing up in the era of "Father Knows Best" and then, years later, watching the "Mary Tyler Moore" show. In a very short period of time we have gone from "Father Knows Best" to the kaleidoscopic images of MTV and rappers who urge the killing of police officers. When you go home late this evening and turn on HBO, you will see and hear things that once would have shocked even the most coarse merchant sailors.

When I was going to school as a young boy we used to pack lunches. Today teenagers are packing guns.

The problem of crime comes down to a question of values. While I support this amendment, and will support this bill with various other amendments, I believe they are insufficient to do much of anything to control crime in this country. What we need to do is focus on values.

Vice President Quayle was heavily criticized, indeed, even ridiculed by many in this country when he publicly questioned the Murphy Brown show for not promoting family values when it seemed to glamorize the birth of a child to an unwed mother. I will not take the time this evening to debate that subject except to say that I think he was right on the mark when he raised the issue. I realize that many supporters of the show believed the program was simply showing the dilemma faced by many women today.

From what I have heard, virtually everyone in this Chamber, be they liberal or conservative, Democrat or Republican, now shares the view that over the years we have lost the core of moral values. There is nothing in this bill, really, that is going to do much to correct that.

I mentioned Singapore as a Plato's Republic. That is an example this country is not about to follow. However, Singapore's paradigm of values is worth exploring.

Mr. Lee Kuan Yew pointed out, for example, that the most important values to Singapore society is: first, the common good; second, the family; and last, the individual. In our society, the reverse seems to be true. We place the individual first, family second, and the common good last.

Mr. Yew also pointed out that, in Singapore, such a high value is placed on the family that their tax code is designed to penalize people for divorce and to reward people for remaining married. We do quite the opposite in this country. Our tax code imposes a penalty on those who get married.

I do not suggest we even try to emulate what is taking place in as small and homogeneous a country as Singapore. It is interesting to note that they have a very low crime rate. There is very little if any drug use because you can be executed for possessing and selling drugs. There are virtually no handguns. People do not live in total freedom but they do live nearly free of fear—nearly free of fear. That is something we no longer experience in this country.

I respectfully suggest there are not enough prisons, boot camps, police, or courts. None of these can be created or expanded fast enough to keep pace with the number of illegitimate babies being born, the number of crack-addicted babies being born, or the number of children who are growing up in urban concrete jungles or the more barren landscapes of rural America. It is going to take much more to rekindle the values that once made this Nation, without exception, the envy of the world.

Many countries I visit no longer look with envy or admiration upon the United States. Instead, they see a rising tide of violence, a flood tide that is sweeping this country with the voraciousness of the fires sweeping through southern California.

Other countries see our violence, decadence, drug use and say that America is not a country to emulate. They emulate our economic freedom but try to control, as best they can, the adverse elements which we seem to be drowning in.

New York City was once viewed as the very symbol of liberty and freedom where one could pursue his or her dreams and hopes with unbridled optimism. Recently, I read an article in New York magazine entitled "How Bad Is It?" This article made a very deep impression on me and I would like to read part of it. The article was written by Craig Horowitz and points out the problem that is now confronting the people who live in New York City. I suspect this problem is not unique to New York.

The article points out the case of Ricky P.

> Ricky P. is a dangerous criminal. He doesn't carry a 9-mm, a Glock, a Mac-10 or any other high-tech weapon of death popular on the street today. He is not a drug dealer, a murderer, a rapist, an armed robber, or a child molester. According to his rap sheet he has never committed an act of violence and not a single one of his crimes is worthy of a hysterical tabloid headline or, for that matter, any other kind of newspaper coverage. Ricky, 36, is simply a small-time thief—shoplifting mostly—and he is dangerous because of what he represents, not because of the crimes he commits. But over the past 8 years, he has been convicted 41 times—40 misdemeanors and one felony.

The article goes on to explain that he has given the police nine different dates of birth, and seven different Social Security numbers. That on one particular day he was arrested three separate times and he was given a, what they call a DAT, a desk-appearance-ticket, an order to appear before the police court or the lower court to account for his actions.

On three separate occasions in one day he was arrested—on three separate occasions—given a DAT, none of which he ever appeared at.

Then he finally was arrested for shoplifting and he went before a court. The court suggested he plead guilty to one offense and would receive 4 months if he did so. He decided to go forum shopping. He said, "Not guilty." He was assigned to a different judge, and he then received a sentence of 10 days community service, despite his 40 previous convictions. And there is no evidence he actually even performed the 10 days of community service.

The article goes on to point out it is symptomatic of what has happened to our criminal justice system. New York is a city in which there are roughly 2,000 murders committed every year. Think about that, 2,000 murders a year.

There are over 500,000 reported felonies, and 1 million felonies that go unreported. There were 5,761 violent incidents in the public schools; the police estimate there are more than 1 million guns on the street, most of them illegal; 1 out of every 4 robbery arrests in

the entire country are committed in New York City by those under the age of 15.

The article continues:

Ricky is merely a small but typical part of a much larger problem * * * The system has broken down and is spinning out of control. Shoplifting, token-sucking, vandalism, aggressive panhandlers, hostile squeegee people, homeless people, car break-ins, drunken or drug-induced disorderly behavior, peddlers, drag racing, noise, filthy streets.

There is a growing sense of hopelessness on the part of the people who are living there today. It cites the article that our colleague, Senator MOYNIHAN, wrote earlier this year for a magazine in which he talked about "defining deviancy down."

A few short decades ago, an act of violence like the St. Valentine's Day Massacre, in which, I think, four people may have been cut down on the streets by three or four others, made headline news the world over. Today, that would not warrant much more than a footnote in most daily newspapers.

The article proceeds to talk about what one former mayor, Ed Koch, said. He said:

The city is now in a downward spiral where middle-class people—white and black—are moving out. They're moving out because of fear of crime, out of fear of sending their kids to the public schools—because they won't learn, but worse still, they're in physical danger. We're approaching, not yet reaching, a point of no return.

When asked what "a point of no return" was, Ed Koch said: "We become Detroit."

Perhaps an exaggeration on Mr. Koch's part, but that is the fear that is now gripping the residents of New York City.

There is a quote I would like to read because it was issued by a judge, Supreme Court Justice Edwin Torres. He said:

This numbness, this near narcoleptic state, can diminish the human condition to the level of combat infantrymen, who, in protracted campaigns, can eat their battlefield rations seated on the bodies of the fallen, friend and foe alike.

The judge wrote that:

A society that loses its sense of outrage is doomed to extinction.

He said:

Let's not stick our heads in the sand, because you know the portion of the anatomy that's left exposed then. I don't think there's enough talk about it. You know, there's a misperception * * * The minority groups, of which I am a member, are more law-and-order than any other group in the city, because they constitute a disproportionate number of the victims. If you go to any of these neighborhoods—East Harlem, West Harlem, Bed-Stuy—they are the ones who are under the gun; they are the ones whose children are being murdered on the stoops and streets and the fire escapes. But that is a silent-majority situation.

What is most distressing of all is the fact that the elements of crisis have reached down to the levels of juvenile crime. Of the 13,000 juvenile cases that were handled last year, more than 90 percent were felonies; 13,000 juvenile cases, the majority, 90 percent, were felonies. Over the past 7 years, the number of kids 15 and under arrested for carrying a loaded gun has grown to more than 750. In 1986, it was 103.

I mention this all by way of preface because there are going to be a number of amendments offered later tonight or sometime tomorrow. I see my colleague from Illinois is on her feet. I know she wants to talk about an amendment that she has in mind. Senator KOHL from Wisconsin also has an amendment dealing with juveniles.

But I wanted to come back to the fundamental point about values; that all that we are doing—this bill which is nearly 500 pages long—will not do very much of anything to control crime in this country until we start facing up to the reality of what is going on underneath with a loss of family, with a loss of mothers and fathers, with a loss of the influence of the church.

I must say, I find it disturbing to find that candidates who stand up and run for office and who live a very good and, indeed, religious life suddenly find themselves the subject of ridicule. We have to return to those fundamental values about life and the quality of life and caring for our children and being responsible for them because none of this will save us.

We can build the prisons—and I favor the prisons—we can build the boot camps—and I favor that—and we can put people away and take the dangerous criminals off the street and ensure some measure of safety. But underneath, if the illegitimate babies continue to come, if the drug-addicted babies continue to come, if the broken families continue to expand in number, there is not enough money in our budget to deal with the consequences. So it comes back to a question of values.

I recall reading many years ago a book written by Alistair Cooke. He drew a comparison between the United States and, inevitably, between the history of Rome. He said that we, like Rome, were very much in danger of losing that which we profess to cherish most. He said, liberty is the luxury of self-discipline, and that those nations who have failed to discipline themselves have been disciplined by others. Then he turned his very critical eye to the United States. He said,

America is a country in which I see the most persistent idealism and the blandest of cynicism. The most persistent idealism and the blandest of cynicism, and the race is on between our vitality and our decadence.

That, Mr. President, is precisely where we find ourselves today, nearly two decades later. The race is still on between our vitality and our decadence. This bill and this amendment will help, I think, provide some measure of protection to the people who are now living in mortal fear, who cannot drive their cars at night, who lock their doors, myself included, and the moment we come to a stop light, we make sure the doors are locked because we might be the victim of a carjacking.

I heard the Senator from Massachusetts earlier today talk about an incident in which someone threw a bottle of beer at his feet, and when he complained about it, the car turned around, and he experienced the real fear of being attacked by the occupants.

I had a similar experience about 2 years ago, in which I was coming from a dinner with my youngest son. We were walking not more than 100 yards from the restaurant where I live and a car pulled up loaded with, I guess, young people. I could not see inside the car. It had darkened windows. I could tell by the very nature of the car itself and the sense of violence it conveyed just from the way in which the car was being driven, that there was danger posed to me and to my son. Sure enough, the car made a quick U-turn, started to come over to our side of the road, and the apartment building was from here to the doors of this Chamber. They were about to pile out and attack the two of us. The only thing that stopped them from doing so is we happened to be walking by a building in which there was a security guard standing outside who was armed. Once they spotted the security guard, they got back in the car and took off.

So I, like the Senator from Massachusetts, might have become a statistic along with my son. So police on the street make a difference. They do make a difference, and we want to have more of them on the streets.

But I come back to that point: It will never be enough. We cannot put enough Guardsmen in the street, you cannot deal with the problem of illegitimacy and drug addiction with bayonets. Bayonets will prove futile.

So this is a beginning but, I must say, we have to rekindle the values that made this country strong or else we will continue to slide into that level of moral rot. What many, many Americans are now seeing is that pool of decadence from which we will not be able to retrieve ourselves.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. COHEN. I yield.

Mr. BYRD. I know the distinguished Senator from Illinois is seeking recognition. I will detain the Senator but a moment, just a few minutes.

I agree with the Senator when he says that this is not enough and that money itself will never cure the problem. I said to a group of Democratic Senators who were assembled just the other day, I am old fashioned and the problems that the Senator had been talking about, as I mentioned in that gathering, are the result of the breakdown of the family and of the erosion

of moral and religious values in this country. These are basic. And, in my opinion, we will never solve this problem. I do not think things are going to get better. I think they are going to get worse. I have now lived almost 76 years, and I have seen this trend too long. The old values that have made this a great country are eroding.

I have been talking a good bit about Roman history. The Senator has mentioned the Roman Empire and the Romans. The average Roman was simple, steadfast, honorable, courageous, patriotic, and reverent, and the Roman family was the cornerstone of Roman society. It was in the family circle that the Roman learned about respect for authority and the veneration of ancestors and reverence for the gods.

These values gave stability to Roman society and iron discipline to the Roman legions. A Roman family met evening and morning, together with the slaves, and they offered prayers and sacrifices to the departed ancestors around the hearth in which there burned the eternal flame that signified unity of the family. When those values eroded, the legions lost their iron discipline, and Roman society crumbled and the Roman Republic collapsed.

These were basic then, and they have been basic to our country. Until we get back, as the Senator has so correctly said, from my viewpoint—and I like to hear him talk. I always enjoy listening to him. I always learn something. Until we get back to those old values, we will never see this country like it once was: "Except the Lord build the House, they labour in vain that build it."

I thank the Senator also for his cosponsorship of this amendment.

Mr. COHEN. I thank the Senator for his comments. I will only go on for another moment because I would like to add just a footnote to what I have said before.

At the core of those values we also have to insist that we start judging people based upon their merit and eliminate, to the best we can, the biases and the prejudices that we hold for others who might be either of lesser stature or have lesser opportunity in our society.

I was thinking of the quote from Oliver Wendell Holmes, Jr. He once gave a speech in which he spoke about the hell of the old world's literature consisting of people being taxed beyond their abilities. And you can, of course, cite Sisyphus and others where they simply could not measure up to the task before them. But, he said, "I think there is a deeper abyss in contemporary society." And he was writing this back in the 1920's. There is a deeper abyss, "and that is when powers conscious of themselves are denied their chance."

That also is the fundamental problem we face today where people, who are conscious of their God-given, innate born powers, are denied their chance because of their sex, because of their race, because of their religion. That has to stop.

So as we are building a more moral society, going back to those virtues that made us the envy of the world, we have to rededicate ourselves also to start judging people upon the merits, upon who they are as individuals, and not upon any stigma that we attach to them due to bias and prejudice.

Mr. President, I yield the floor.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. I thank the Chair very much.

Madam President, I would like to make my statement in support of the crime bill.

Before I do, I really would like to engage for a moment in a conversation or colloquy with the Senator from Maine and the President pro tempore, and to say to the President pro tempore I had occasion, as did the other Members of the Senate, to listen to his eloquent lessons on the decline and fall of the Roman Empire, when he talked about it in connection with the line-item veto.

I followed that conversation. I followed the Senator's lesson plan as close I think as anyone. In listening to the Senator's comment in response to the Senator from Maine, if there is one thing I would like to add this evening, it is a voice of optimism, a voice of optimism about the decline in our values and about the direction of the road which we are following.

Every generation of Americans reinvents itself. It is the quintessential American experience that we reinvent how to deal with the problems of our time. It seems to me that there are a lot of young people, there are a lot of people who have not been around for the old days and do not really have any connection to them but who are searching, who are trying to find the moral path, who are trying to find the right way, and who want to build and to continue a society that is strong, that is supportive, that allows for the opportunity the Senator from Maine talks about, who want to fulfill that dream.

I say that to the Senator from West Virginia as a note of optimism. I think our role is to give those young people a chance, to give those young people the foundation or the tools with which to work as they build their new society, as they build what our America will look like in the 21st century. If we have done our job in Government, to provide them with the tools they need in order that those positive values will emerge and beat back the naked values, the declining values, the values that tear us apart, if we do our job, we can make it easier for them to succeed and to triumph.

I believe that will determine the critical difference between whether or not our society will go into a spiral of decline or whether we will be able to take forward from our generation to the next what the dream of this country is all about.

Mr. BYRD. Madam President, will the distinguished Senator from Illinois yield?

Ms. MOSELEY-BRAUN. Absolutely.

Mr. BYRD. She made reference to listening to my speeches on Roman history. I want to take this opportunity to congratulate her on the excellent work she does as a presider over this body. She takes her turn at presiding, and she is one of the best presiding officers we have. I have said this very same thing to my wife and to members of my staff. When the Senator from Illinois sits at that desk to preside, she is not reading a newspaper. She is not signing mail. She is very alert, paying attention to the Senate. She has not forgotten the few suggestions that I made when she first came here in my efforts to give to the new Members a few rudimentary principles by which they might be guided in presiding. She obviously listened and has not forgotten them.

With respect to what we do here, I agree with the Senator. As a father and grandfather, I wish I could say I had some great grandchildren but my grandchildren are fully grown. One is in his fourth year, studying for his doctorate in physics at the University of Virginia; his younger brother is in his first year working on his doctorate in physics at the University of Virginia; one graduated from Princeton about 5½ years ago; and one granddaughter graduated from Roanoke College some years ago.

I have tried to instill in my grandchildren the same thing I have tried to instill into the young people of West Virginia, that you can go as far and as high as you want to in this country if you have the ambition and the drive, the willingness to work and use the opportunities that are yours. I have tried to inspire young people—I do not mean to intrude on the Senator's time, but I have tried to inspire not only the young people but people like myself who are getting along in years with the idea that learning is a continual thing.

We ought never stop learning. Solon, one of the seven wise men of Greece, said, "I grow old in the pursuit of learning." And I try to encourage our young people to read something that is wholesome, to read great pieces of literature; do not fool with the pieces you pick up at the airport in those stands. I never fool with those.

I try to carry with me something by Emerson, his essay, Milton's "Paradise Lost," Dante's "Inferno," "The Divine Comedy," or history. And I try to encourage them to excel in their studies and become the best spellers, the best

mathematicians, the best in whatever classes they take. Try to be the best.

I try to encourage them along those lines because I can remember that in my own meager beginnings my foster father did not buy for me a cap buster or a cowboy suit. He did not have much to buy with. He was a coal miner. He bought a set of water colors, or he brought me a drawing book, or a book to read. He encouraged me to try to excel. And so did my teacher.

But I do not hold myself up as a paragon of virtue or anything like that. But people do try to emulate others, and I try to encourage young people to strive for the best. And I tell them when they come to visit my office, do not ever let anyone try to persuade you that there is not a God who created man in his own image and had the destiny of men and nations at heart. And when I use the word "men," I speak generically, and of course I include my wife and granddaughters and the ladies.

This is one individual who still believes that men should look up to women, and I still feel that sometimes I am becoming a little out of place because I was taught to say, "Yes, ma'am," "No ma'am," "Sir."

And I do not intend to ever surrender these old virtues that I was taught. I have missed by far living up to them as I should. We all stray from the straight path. But if we are taught the right things that our mothers—and I lost my mother before I was a year old. But I had a dear aunt who raised me. What we were taught then, if we are taught right, we may stray, but we will come back.

I thank the lady from Illinois. I am speaking as I would in the House of Representatives now, the gentle lady. But I thank the distinguished Senator. She is correct.

We want to do everything we can here. It is our duty. But we have to do more than that. We have to try to provide encouragement to our young people and remember that most of our young people are wholesome young people. We do not hear so much about those who are in the libraries, or in the laboratories, or who are working at their studies. We only hear of a few who do something else, and they serve to give a black eye to the majority of our young people.

I believe we have some fine young people in this country. We ought to do ourselves everything we can to encourage them to grow, to excel, to strive to do what is right and to continue to learn every day of their lives.

I thank the Senator. I want to thank her again for being a good Presiding Officer.

Ms. MOSELEY-BRAUN. Thank you very much. That is a very high compliment coming from the Senator from West Virginia. I am greatly honored by his comments.

Today in Chicago, Madam President, mothers at the Cabrini Green Housing Project will anxiously watch their children leave for school, praying that they do not meet the same fate as 7-year-old Dantrell Davis, who was gunned down in a gang crossfire one day last fall as he made his way to class.

Meanwhile, for senior citizens all across the city, the passage of daylight savings time will be more than just a reminder that winter is coming: it will be a signal to them to hurry and finish their shopping an hour earlier so they can be home safely before dark.

Later this afternoon, in cities across the country, parents will keep their children inside after school, afraid to let them play anymore in parks that have been taken over by gangs and drug dealers.

Tonight, Madam President, in a scene which will be repeated at colleges and universities from coast to coast, a female student will leave the Loyola or Stanford or University of Illinois or Grambling Library before she finishes her studies, simply in order to walk back to her dorm room with an escort and be able to move about her environment free of the fear of rape or sexual assault.

And somewhere tonight, in an inner-city neighborhood starved for jobs and economic development, a small businessman will close his doors for the last time, tired of working behind steel bars and bullet-proof plastic and placing his family and future at risk every time he opens for business.

And by the end of the day, thousands of other Americans have acquired a handgun or assault weapon to protect themselves, or for the alternative.

All across this great country, crime is causing Americans to change the ways we live our lives. Crime is destroying the dreams of our young, it is stripping the dignity of our old, and when it strikes fully one, out of every four American households, as it did last year, it is threatening to turn the rest of us into a nation of victims. Afraid to go to the park or the corner grocery store. Eyeing our fellow citizens with fear. Avoiding entire cities or neighborhoods because of what we fear might happen there.

I have been in public life for 19 years, 4 years as an assistant U.S. attorney and 15 years as a State and local elected official. And for all of those years, crime has been an issue of great public concern. For all of those years, the level of crime in our society has been unacceptably high. But now, there is consensus that crime in this country is out of control.

But we can no longer ignore the truth. We live in a country where 7-year-olds are gunned down on their way to school; where 9-year-olds bring guns to school and when asked why reply, "for protection"; and where—as the Washington Post reported Monday—11-and 12-year-olds in some crime plagued neighborhoods are already planning their own funerals.

Eleven-year-olds such as Jessica Bradford, a sixth-grader at Payne Elementary School, who recently told her family that if she should be shot before her sixth-grade prom, she wants to be buried in her prom dress.

"I think my prom dress is going to be the prettiest dress of all," little Jessica said. "When I die, I want to be dressy for my family."

Madam President, when I was 11 years old, my only hope was that one day I would be invited to a prom—not whether my dress would be pretty enough to wear to my funeral.

But then, when I was growing up, Mr. President,, a club was something you joined, like the French club or the chess club, not something that millions of Americans attached to their steering wheels to try and make sure their car would still be there in the morning.

What is happening to our children, Mr. President? What is happening to our society? And how long are we going to allow it to continue?

Every day in America, crime brings tragedy to the lives of those like Jessica Bradford, who I hope gets the chance not only to attend her sixth-grade prom, but also to buy a brand-new and even prettier dress for her senior prom 6 years from now.

Perhaps the biggest tragedy of all, however, is that, worn down by the daily barrage of bad news and grim statistics, the latest line of shootings, stabbings, rapes, and assaults, we are slowly becoming inured to the slaughter; we are becoming silent accomplices in the slow disintegration of orderly society; we are surrendering our lives to the threat of violence and to the rule of force.

Senator MOYNIHAN was exactly right. We are becoming inured, becoming enamored, we are becoming almost blind and oblivious to the presence of crime around us.

Our victimization is no longer a personal concern, it is a public tragedy, and the very character of our free society is jeopardized by the madness.

More than 50 children under the age of 15 have been killed in the Chicago area this year. That means that more children have been shot in Chicago so far than all people of all ages in England for the entire year of 1991.

We cannot pretend this is only a problem in our inner cities, because violent crime is also spreading across rural Illinois. This epidemic, like all epidemics, is spreading without fear or favor.

How can this be? Where is our outrage?

Perhaps we need to see ourselves as others see us. Like many of my colleagues and millions of other Americans, I saw a "60 Minutes" broadcast

last week on the preparations taken by Japanese tourists for a trip to the United States. One group of visitors watched an instructional video entitled "A Little Street Wisdom." Among the tips these tourists picked up were: "Don't let strangers into your room"; "don't walk alone at night"; and "never argue with a criminal—just give him your money."

"Remember to use a little street wisdom and have a wonderful visit to the United States," concluded the video's helpful narrator. Who was the video's producer? Who wanted to take every step possible to prevent foreign tourists from becoming victims on our streets?

The answer, Mr. President, is the U.S. Government.

Allow me to repeat that. As if it does not have enough to do, the United States Government is now producing videos to ensure that the Japanese public is safe on our streets.

But what about the American public, Mr. President?

What about the 23,000 Americans who were victims of homicides last year?

What about the 109,000 American women who were raped and the countless thousands more who were victims of domestic violence?

What about the 1,600,000 Americans who were victims of robberies or aggravated assaults?

I am no xenophobe, Madam President. I do not mind that our Government is taking aggressive steps to protect Japanese tourists in New York and Los Angeles, or German and British tourists in Florida.

But I think the American people have every right to ask what are we—the elected branch of the U.S. Government—going to do to keep them safe on our streets in our own cities and towns?

What we cannot afford to do is to trot out the failed approaches—whether they be liberal or conservative—of the past. In fact, ever since crime and the cry of "law and order" were exploited for political purposes in the 1968 elections, what both parties have billed as the answers to the crime problem have often been more slogans than solutions.

"We have to look at the root causes of crime," said the liberals, calling for increased spending on social programs and an emphasis on rehabilitation as the best way to attack crime. After 30 years of looking, Mr. President, the root causes are still there and crime is worse than ever.

In fact, not only are the root causes still there, they have gotten worse. In many inner-city neighborhoods in this country, unemployment among young males is at levels of 50 percent—and higher. What do people think is going to happen when half of the young men in a community are totally excluded from the system?

Make no mistake, Madam President—all of us know that poverty, unemployment, inadequate housing and education, and racial discrimination contribute to crime, and I, for one, always have and always will support an active governmental role in combating these social ills.

I daresay that no one looks forward with more anticipation to the day when we make a serious attack on the root causes of crime than this Senator and the constituents I represent.

And it is precisely the constituents whom I represent who are saying, "we're tired of being held hostage to crime. We're tired of being terrorized every day of our lives."

Even in the poorest communities in this country, people are saying being criminal is worse than being poor. Poor people—honest people—are the least sympathetic to the vampires who suck the little they have and make them hostages to those who would sacrifice their dignity. It is time that we in Government took action to reinforce that message.

I refer to a conversation earlier. It is the people living in these communities, the citizens, who do not have the chauffeur-driven limousines, and who cannot afford to live in high rises, those in the streets, in the communities, that are victimized the most, and they are the ones who are calling for us to take action.

But in the meantime, while sociologists and psychologists debate the underlying causes, an epidemic of crime is destroying the American people's lives and livelihoods right now.

Liberals were not the only ones with slogans about crime. For conservatives, "lock them up," was the cry of the day, and during the 1980's we built more prisons, imposed more mandatory minimum sentences, and carried out more death penalties than ever before. And lock them up we did, to the point where on a per-capita basis we now incarcerate a greater proportion of our population than any other nation in the world, including South Africa and the former Soviet Union.

During the 1980's, Madam President, our rate of incarceration increased by almost 200 percent, and we spent four times as much on the criminal justice system as we did on education. Yet does one single American really feel safer? I think not.

It is time for a new approach. The ideological debates of the past were nothing more than a false dichotomy that divided and distracted the American people—and those of us who represent them—while all around us, crime skyrocketed out of control.

It is not either/or. And it does not just come down to a choice between funding a social program and funding a prison cell. The truth of the matter is, there is no liberal solution to crime. And there is no conservative solution to crime. There is only a commonsense solution. Common sense tells us that we cannot just focus on alleviating the root causes of crime because even if successful, these measures might not show any effects until 10 or 15 years down the road. We cannot just talk about locking people up, because once you need to lock someone up, you have already failed at what should be the central task of the criminal justice system: preventing crime in the first place. We cannot say that the only solution we have is to warehouse poor people.

I would much rather prevent crime than spend taxpayer dollars—to the tune of $75,000 per cell per year—punishing criminals. Yet we spend hours in this Chamber debating 47 new death penalties or $47 million for a new social program as if either were the panacea to the crime problem.

Ask the people on the street or the police officers and sheriff's deputies on the front lines if they want 47 new death penalties or 47 new social programs. They will tell you, "neither."

They want 47 new cops walking their streets, or 47 new metal detectors at their children's schools, or 47 new jobs. When we talk about crime, and how to reduce the level of fear that the American people are living with every day, we need to stop talking about Head Start on the one hand and habeas corpus on the other. Instead, we need to start talking about what will make people safer in their homes, in their jobs, in their schools, and on the streets of their cities and towns.

Right now. Today.

We can no longer afford false dichotomies and phony choices. Restoration of our domestic tranquility has got to be our priority. We cannot speak of preserving a system of quality education when children cannot go to school. We cannot speak of the economic revitalization of our great urban centers when people are afraid to go to work there.

I have always believed that a successful anticrime strategy must be proactive, rather than reactive. We have to be smart, not just tough. That is why I support this crime bill.

First and foremost, this bill will deploy up to 100,000 police officers on the streets of our cities and towns, exactly where they are needed the most.

However, this bill will not just send out a few more police officers. It also authorizes $1.8 billion in aid to State and local law enforcement to give these agencies the tools they need to aggressively go after crime wherever it occurs. It will help buy DNA labs and squad cars and bullet-proof vests. It will support urban and rural crimefighting initiatives, and provide for new drug treatment and correctional facilities.

S. 1607, the Biden crime bill, builds upon successful local experiments by

supporting military style boot camps for nonviolent offenders, and regional drug treatment prisons for violent drug criminals. It authorizes funding for the drug courts that Janet Reno employed so successfully as a prosecutor in Miami courts that require drug testing, drug treatment and alternative punishments for nonviolent young drug offenders.

Let me say that there is no better example of the new thinking embodied in this bill than boot camps and drug courts. Some people say we do not have enough empirical evidence as to whether these ideas will work. But I think they make sense. I believe the people think they make sense. I say very little that we have tried so far has worked. I say we are in a crisis—at least we ought to give it a try.

It provides grants for schools to fund anticrime and safety measures—imagine; Madam President, safe schools—and imposes tough new penalties on the gangs who terrorize adults and lure youngsters to a life of crime.

It addresses the nationwide problems of police brutality and misconduct and racial bias in the criminal justice system by giving the Attorney General the power to intervene where a police department has shown a pattern or practice of brutality, and by making funds available to the States to conduct studies on the effect of race on the administration of criminal justice.

That is no small accomplishment, Madam President.

Because the African-American community in this country wants to be participants in, rather than the object of the crime debate. No community is more devastated by every aspect of crime than the African-American community. If the thousands of black Americans who write me and approach me had one message for this body regarding crime Madam President, I believe it would be this: Provide our community with the economic opportunity we need to allow all Americans to share in this country's promise. Give our neighborhoods a fair share of the law enforcement presence that will stop crime before it happens. But for those who will not respect themselves or their community, who would destroy life rather than uphold it, make the punishment, swift, sure, and certain.

Crime is tearing apart the very fabric of our society. We cannot sit idly by while our constituents and our communities are crying out for help.

I support the crime bill, even though I, for one, oppose the death penalty. I am going to support the bill in any event, and I urge all of my colleagues, from both sides of the aisle, to support it as well.

I also would like to pay special tribute at this time to the Senator from Delaware, Senator BIDEN—he is not here right now—the chairman of the Judiciary Committee on which the Presiding Officer and I serve. For more than a decade now, Senator BIDEN has been on a mission—a mission to get the Federal Government to take a leadership role in the fight against crime. He has battled to find Federal funding for State and local law enforcement agencies. He has been willing to courageously challenge drug wars fought with empty rhetoric instead of real resources and tried to push this nation towards a realistic, comprehensive anti-drug strategy. He has never ignored the toughest issues—such as habeas corpus—and has spent countless hours trying to craft compromises on these issues so that we would not be blocked from making progress on all of the others.

It is largely due to the efforts and perseverance of the Senator from Delaware in the face of repeated attempts to derail this bill and continue to use the crime issue as a political football that we have a crime bill at all. And I thank him today for his steadfastness and his dedication.

I also would like to take this opportunity to announce that I will be offering a series of amendments to deal with the most disturbing new trend in today's criminal justice system: The rise of violent juvenile crime. Every year, as our streets and cities become more and more dangerous, we find that it is younger and younger criminals who are spreading the fear and the violence.

Once every few generations, we reexamine our treatment of juveniles in the justice system. At the turn of the century, my State of Illinois became the first to create a separate court for juveniles, as recognition spread that it was not appropriate to treat most juveniles in the same way we treat adults. Twenty years ago, as the problem of what we used to call juvenile delinquency intensified, Congress passed the landmark Juvenile Justice Act of 1974, which focused on noninstitutional solutions and on separating status offenders from those convicted of violent offenses. Finally, in the decade which just passed, we witnessed a move to try some of the more violent juvenile offenders as adults.

I submit to my colleagues that once again the time has come for an examination of how we deal with juvenile offenders.

Between 1987 and 1991, the number of juveniles arrested for murder increased by 85 percent. That compares with an increase of only 21 percent for those over the age of 18. During the same period, the number of juveniles convicted of all violent crimes increased by 50 percent, twice the increase for persons over 18.

In 1990, fully one-third of all murders were committed by individuals under 21 years of age, and in 1991, 122,000 juveniles were arrested for committing a violent crime—murder, forcible rape, armed robbery, aggravated assault—the highest number in history.

In fact, in light of who is committing the crimes in our society and the callousness with which the youngest offenders are carrying out their mayhem, it may no longer make sense for us to talk about the juvenile justice system as if it were separate from the criminal justice system. To a very real and a very frightening extent, criminal justice in this country is becoming juvenile justice.

That is why I am proposing a comprehensive package of initiatives to deal with the issue of juvenile crime in our society. To those youngsters and their families who need help, I want to extend a helping hand. To those youngsters who have a brush with the law, I want to provide the education and training to enable them to avoid a life of crime. But to any juvenile who would take up a gun to terrorize society—and to any adult who would provide such a weapon—I want to send a very clear message: You are old enough to know right from wrong and if you use a weapon to commit a crime we will lock you up for a very long time.

In other words, if you are old enough to do the crime—you will most assuredly do the time.

First, because we must always acknowledge that it is better to prevent a crime than to punish a criminal. I am offering an amendment which specifies that at least 20 percent of the juvenile drug trafficking and gang prevention grants must be used to provide parenting classes to high risk families and nonviolent dispute resolution classes to junior high school and high school students in areas of high violence.

We must teach our children that every dispute need not be settled with a gun.

My second amendment expresses the sense of Congress that all incarcerated juveniles receive education at least equivalent to the standards of the local school district. While I realize that, over the past 2 decades, some have said that we should not waste time or money trying to rehabilitate adult offenders, we cannot give up on our youth. According to the Department of Justice, less than half of the 57,000 youth incarcerated every day in public facilities are receiving a satisfactory education. We cannot afford to give up on any juvenile merely because he or she has had a brush with the law. Education probably is, as we all know, the best tool to avoid recidivism. My amendment hopefully will authorize the funding for States to receive grants to ensure that every incarcerated juvenile receives a basic education.

My next two amendments deal with the most dangerous mixture in America today: Kids and guns. I know in the coming months both sides will express

themselves passionately on gun control issues—but one thing on which the American people and the Members of this body are in unanimous agreement is that guns do not belong in the hands of children.

As the statistics I cited earlier today indicate, and as the chilling descriptions of some of the killings committed by juveniles signal, juvenile crime is rampant. There are some who think that 13 year olds are not truly capable of distinguishing right from wrong, that a seventh grader does not realize that a gun is not a toy and that he should not bring it to school or carry it on the street.

I am not one of those people.

We as a society cannot turn our streets over to criminals who happen to be children. They must be made to account for their actions when they terrorize the rest of society.

My third amendment would direct U.S. attorneys to try juveniles 13 years and above who murder or use a firearm in the commission of a violent crime as adults, while providing safeguards so that young offenders who truly rehabilitate themselves will not be condemned to a life of incarceration. This amendment I will discuss further in the context of the bill.

Madam President, it is also important that we not spare the adults who are arming our children, cynically using them as mules and lookouts to earn their ill-gotten drug money and push their poison into our children's bodies. A companion measure which I am introducing will make it a new Federal crime to provide a firearm to a juvenile which the provider knows or has reason to believe will be used in a crime or in furtherance of a criminal conspiracy.

Finally, because of the strong evidence that minority youth receive disparate treatment in many Juvenile Justice Systems across the country, I will introduce a measure to allow the Attorney General to intervene where a pattern and practice of such conduct can be demonstrated.

These and other measures offered by many of my colleagues I hope will become additions to perhaps the most important bill we will pass in this session. Then, Madam President, I hope we can turn to the business of enacting some serious gun control measures in this country.

I referred earlier to the epidemic of crime in America. Some people question that characterization. Some feel that it is an exaggeration.

But I use the term epidemic deliberately. When the number of deaths caused by violence, which kills more than 50,000 Americans each year, is greater than the number caused by AIDS—which kills 30,000 or drunk driving, which kills 18,000, crime is an epidemic.

When gunshot wounds are the leading cause of death for both black and white teenage males, crime is an epidemic.

In 1991, for the first time in our Nation's history, the number of homicides alone exceeded 25,000.

So I do not think I exaggerate when we call it an epidemic.

As Dr. David Satcher, the new head of the Centers for Disease Control and Prevention, said, "if violence is not a public health problem, why are all of those people dying from it?"

Violence is perhaps the No. 1 public health problem in this country. And guns are the primary instrumentality of that violence. That is why I support the Brady bill. That is why I support the assault weapons ban. And that is why I will be introducing a measure along with others to require all owners of handguns and assault weapons to purchase liability insurance, just like the owners of a car.

In conclusion, Senator BIDEN is to be commended for taking the leadership in this area, for the vision to recognize that the something we have to do is not just hearts and flowers or lock 'em up and throw away the key. It is a bit of both. This is crime fighting with common sense. It is proactive as well as reactive. It is liberal and conservative.

It takes parts of many approaches and crafts a program that can work. We are all in the same boat now even if we came to this point in different ships and by different roads. Crime fighting represents the consensus our Nation has reached. We are bailing out the water in the boat, reclaiming our streets, on our way to rediscovering our domestic tranquility.

We must make sure, Madam President, that the word goes out and that people out in the communities hear us loud and clear. For the criminals who do not watch C-SPAN and are not watching this debate and are not paying much attention, we want to make certain that the word goes out that we are united as a people in this war on crime; that we intend to take our country back; and that violence will no longer be tolerated.

This crime bill, I believe, gives us a first step, gives us a tool to effectively approach this war on crime in a way that makes sense and can work.

I wish to congratulate the ranking minority member, who is on the floor, for all of his work on this bill and Senator BIDEN for all of his work on this bill. I look very much forward to being a part of this continuing debate.

Thank you.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I will not take long. I know there are others who want to speak.

Madam President, I really believe that we are quite close to having this basic part of the core package done. I am hopeful that we can before we leave this evening, which would mean we would vote on this, plus Senator DOLE has another amendment, an arson amendment, that we would vote on.

But this particular major amendment, which has been put together by a wide variety of people on the floor—but in particular Senator BYRD—helping us to get this done has $8.9 billion for 100,000 policemen on the beat. I think all of us agree that would be a very good idea. It is a bipartisan issue. Both Republicans and Democrats support it. It is something that is long overdue. If we are going to end criminal activity in this country, or at least diminish it greatly, we need these policemen on the beat.

Second, there will be $3 billion for regional prisons, something we have fought for for years that really is long overdue, that will help to house these prisoners in ways that they need to be housed and will help to take them off the streets so that we end an awful lot of violent crime.

There is $3 billion for boot camps and other State grants, operation grants. I think almost everybody admits that we ought to move toward boot camps, especially with young offenders. It may have some rehabilitation effect. We hope it will. But, most importantly, it will cost about a quarter as much as if we house them in regular prisons at $30,000 to $35,000 a year apiece. It will be a lot less than that if we run the boot camps. But I think it is time to let them know that this is a tough world, that if they are going to act like this, they are going to have to pay the price. So this a good step.

I think both sides can agree that this is a very bipartisan, interesting, and good approach.

We have $500 million in here for hard core juvenile offenders that really ought to be in jail, but we do not have places to put them. These are juvenile detention facilities. It is a step in the right direction. It probably is not enough money right now, but it certainly is a step in the right direction. It is something we have not done before.

And we have the violence against women bill for $1.8 billion. It is about time that we passed that legislation. A great number of Senators have worked on it, particularly Senator BIDEN, Senator DOLE, and myself. There are others that deserve to be mentioned, but let me just mention those three for now, because we feel very deeply about this particular bill. We think it is written well. We believe it will help to solve a lot of problems. We believe that it recognizes the power and the obligation and the duties of the States, and the rights of the States, as well.

One other aspect of this bill that is very, very important is the sentencing aspect. We are adopting truth in sentencing. We are encouraging States to adopt truth in sentencing. That means, if these hard core, violent criminals are

put away, they serve at least 85 percent of their sentence. We think it is about time that that take place. And that is a major, major, pivotal part of this.

Now, I want to compliment all who participated in this. In particular, I want to pay tribute to my friend who has spent so many long hours in here, and has since I have been here in the Senate and long before I came, the distinguished Senator from West Virginia, the distinguished chairman of the Appropriations Committee. Because, without him and without the funding that his amendment has provided, none of this really would mean a thing. We could go through and authorize it until Kingdom come, but without that funding, the effort and the ability to be able to really bring down crime in this country would never occur.

He was the one who came up with the funding mechanism. I just want to personally compliment him for it, plus the ability to put this together the way we are putting it together. It is something Senator BIDEN and I have been trying to do for a long time. We know that we have opposition on both sides of the aisle to getting a central core package, but I think this will go a long way toward getting us a bill that both sides can agree to, that both sides will be proud of, that really we can all be proud of, the whole Congress, and that the President will support and literally will help bring down an awful lot of criminal activity in our society that is going on today.

So this is very, very important stuff. I just want to compliment all concerned, especially Senator BIDEN, Senator BYRD, Senator DOLE, Senator MITCHELL, and others who have worked so hard on this particular amendment.

In particular, Senator MACK has worked very hard with me on this regional prisons concept and also the boot camps and the other operations grants. That is $6 billion of this bill. He deserves some credit, as well. I just want to make sure he receives that recognition.

I do not want to take any more time because there are others who would like to speak. But, Madam President, I hope we can put this together tonight, then we can put some other core features in that I think almost everybody will agree to and hopefully get rid of as many amendments as we can and have a bill that will be, for the first time in 8 years, a bill that everyone in this body can be proud of.

Mr. BYRD. Will the Senator yield?

Mr. HATCH. I am happy to yield to the distinguished Senator.

Mr. BYRD. Madam President, I will only take 1 minute to thank the Senator for his very kind remarks. I thank him also for the excellent work that he has done in the committee on this bill, as well as on the floor.

Mr. HATCH. I thank my colleague. We all respect him.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Madam President, I am not going to be long.

I wonder whether I could put a couple of questions to the President pro tempore on this amendment.

I am trying to understand the budget part. I ask the Senator from West Virginia: Altogether, we are going to be talking about spending how much money into this fund?

Mr. BYRD. $22 billion.

Mr. WELLSTONE. This will be $22 billion over the next 5 years?

Mr. BYRD. In the aggregate, over the next 5 years.

Mr. WELLSTONE. I had a conversation with Senator LEVIN from Michigan earlier, and I am trying to understand the way this would work.

As we spend roughly $4.5 billion, or whatever, a year, something like that, do we then reduce the cap by that amount each year?

Mr. BYRD. We do reduce the cap by the amounts specified in the amendment.

Mr. WELLSTONE. I ask the Senator whether or not I would be on the mark or off the mark with my concern that this could very well be money that would actually come out of education?

I was following the discussion, the very moving discussion, between the President pro tempore and the Senator from Illinois about children and young people and education and opportunity. Is there not really the danger that we would be cutting into these kinds of programs?

Mr. BYRD. This money, the Senator is correct, if it were not used as we are using it, put it into a trust fund for a single purpose—if I might refer to this as a single purpose, dealing with violent crime and violent criminals—it would be available to use for other purposes: foreign operations, national defense, spending on the military, or for any number of domestic discretionary programs. So the Senator expresses a concern which I share.

But it is my feeling that it would be better to use this mechanism, that reduces personnel levels and use the savings for fighting crime, since it is available. There is no question that there would have been amendments offered to use these savings for various and sundry purposes. It is better to use it in this amendment and put it into one effort—against what is probably the most serious problem confronting this country—violent crime. As I said earlier, I would have preferred not to do it this way.

Mr. WELLSTONE. Yes. I very much appreciate your work, Senator, of course. You are a teacher for all of us.

For the record, I guess I want to say tonight on the floor, and I do not quite know what this translates into as the bill goes along, that I do not think, probably, there is a Senator, Democrat or Republican alike, who would argue that we do not need to move toward community policing. We cannot afford not to have real law enforcement for safety and for people. But when I talk to law enforcement people, some of the police chiefs—I have talked to several today—when I talk to judges, they tell me if part of the war on crime is not the war on poverty, this cycle goes on.

You can have a brick and mortar approach and you can have your prisons and you can have your jails and you can have more law enforcement. I think we put different priorities on that here. I am not talking about the violence against women, which I think is a very important part of this act. But if you just go 10 blocks—I have heard Senators on the floor all day talk about, 10 blocks away or 8 blocks away, the kinds of crimes that have been committed and all the rest. But when you talk to judges and police, they say yes, we need more help in terms of dealing with the reality now, but, they will tell you, if you have young people living in communities where, ages 18 to 30, the unemployment rate is 40 or 50 percent, where you have schools that do not have adequate facilities, where you do not have job training, where you have illiteracy and all the rest, that out of those brutal conditions you are going to have the crime committed.

So I guess my concern is I do not know when it was that we decoupled dealing with crime and the focus on safety and security in our communities from the economic circumstances of people's lives. My fear is, Senator—I know you do not intend this to be so—but my fear is we may be taking money out of education, job training, health care, literacy programs, economic opportunity programs. I do not want to belabor the point tonight because I know you are anxious to move along, but I think it would be very myopic if we do so. I really think it is naive.

I may sound naive, I do not know; I hope I do not. But I think it may be naive for all of us to believe that if we go with this approach, which I think most Senators believe is a very significant step forward—if we are with this hand moving this way and with this hand taking away funding for those other kinds of opportunity programs, I worry if we are going to break this cycle.

Mr. BYRD. If the Senator will yield?

Mr. WELLSTONE. Of course, I will yield.

Mr. BYRD. We are not taking money away from other programs.

Mr. WELLSTONE. But if the cap is reduced each year?

Mr. BYRD. The cap is reduced. And I do not like to support amendments that cut funding and reduce caps, because we have already passed a budget

resolution earlier this year which puts the appropriations committees into a very, very tight straitjacket. And we are operating this very year, for fiscal year 1994, with $16 billion less in budget authority than we had last year, and $8.7 billion in outlays less than we had last year; and next year it is going to be worse; and the next year, it is going to be worse; and the next year, it is going to be worse.

So I do not like to do that. This money is the result of the amendment offered by Mr. GRAMM of Texas a few days ago, which I did not vote for. But he utilizes money that is to be saved from the reduction in Federal personnel. So that is what it is really coming out of.

So there was $22 billion that has been identified. It could be used, as I say, for education. It could be used for national defense. It could be used for C-130 planes. It could be used for foreign operations, putting it out in foreign countries. It could be used for any number of domestic discretionary accounts. But here we were about to pass a crime bill with no money to fund it. I feel we kid the American people when we pass authorizing measures and make a big hoopla over the crime bill that we pass, and we do not have any funding for it.

So it is being used for a meritorious purpose. My concern was that we need to fund this legislation that is meant to deal with one of the country's most serious problems, if not the most serious. And here was an opportunity to fund it.

I do not like to lower the caps because they are already too constrained by our budgetary circumstances. But I was concerned that someone would offer amendments, very hard to resist, that would gobble up this money, or offer amendments to add on to the caps, which is as bad as reducing them. Either way they add to the deficit.

So I also was concerned that Senators might be prone to appropriate moneys in authorization bills. And if they offer amendments that are difficult to resist, then we lose and we end up with authorizing committees appropriating moneys.

So here is $22 billion that could be used for any number of things, and in the end what would we have to show for our $22 billion? But by putting it in a trust fund, it will be used for this purpose—Fighting violent crime—and it will not be squandered away in various and sundry other ways, some of which would be good, some of which might not be as good.

So while I do not like to do it this way, under the circumstances, I felt that this was the best approach we could use to address this legislation.

Mr. WELLSTONE. I thank the Senator. It is late at night. I will just mention two quick points, one of which is I just wanted to understand the implications of the reduction of the cap and how that might in turn take funding—that is, play off of other programs.

And my other point is, I guess, when I think about this fund and I think about how to deal with crime, I one more time would like to suggest I think part of any war on crime has to be a war on poverty. I think educational opportunities, for example, and job opportunities, are two of the most effective ways of fighting crime, reducing crime, and providing more security in our communities. And I think I am backed, by the way, by judges and police and those people who are down in the trenches. I just want to make that point.

I thank the Senator.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, the crime bill which the Senate is considering is obviously a matter of enormous importance. In the course of the presentations within the past hour, there have been some very strong comments made by the Senator from Illinois [Ms. MOSELEY-BRAUN], about attacking the underlying causes of crime, and that is a subject that we must never lose sight of, in terms of family structure, in terms of adequacy of housing and education and job training, so we can move to have a society where we can minimize the motivations for some to commit crimes.

In the course of the past colloquy, the issue has been raised by the Senator from Minnesota about eliminating poverty. That is obviously a subject which has to receive the attention of the Congress.

When we focus on the crime bill we have a slightly different center of attention and we are considering very substantial expenditures of funds directed at crime. It is obviously a question of priorities, as to how much we spend on education and job training so that people have useful pursuits and how much we spend on rehabilitation for youthful offenders, for first offenders and for some second offenders.

We also have to face up to the fact that there are, regrettably, many career criminals in our society who have to be dealt with in a very strong way. For a long time our society has recognized that when you have a habitual offender, defined as someone who has committed three or more violent crimes, severe punishment is needed. More than 40 States have required that such people be subject to life imprisonment, to separate them with finality from society.

I believe that that is regrettably necessary, but I think as an indispensable prerequisite, we have to legislate in a way so that juvenile offenders, first offenders, and some second offenders have a chance for meaningful rehabilitation, for literacy and job training.

It is no surprise when someone who cannot read or write leaves jail without a trade or skill and with a drug habit goes back to a life of crime. When we talk about rehabilitation, we are talking about an objective beyond the individual criminal; we are talking about an objective for society to be rid of a person who is going to go back out and repeat more violent crimes. But if we structure our system to provide that opportunity for realistic rehabilitation and we find they are career criminals, then I think we really have to be very strong on the life sentences.

That was the thrust of the legislation enacted by the Congress in 1984, the armed career criminal bill, which brought the Federal Government into punishing violent street crimes for the first time by providing for a life sentence. The Federal sentence for violent recidivists is 15 years to life. That law was directed at street crime—robberies, and burglaries—for the first time. That kind of legislation was introduced and has since been expanded to deal with the drug problem. So I believe that a multilevel approach is necessary to really face up to the problem of crime in this country.

Twenty-one years ago, a Presidential commission laid out a blueprint to deal with violent crime in America. I had an opportunity to serve on that commission and to bring to bear on the work of that commission activities which I had undertaken for many years as an assistant district attorney prosecuting crimes of violence and handling lesser offenses, prosecuting murder cases, and handling death penalty cases on appeal. Regrettably, we have not acted on a reasonably clear-cut blueprint to deal with violent crime which was calculated to cut violent crime in this country by more than 50 percent and could do the job if we really got down to business on this subject.

The legislation we are currently considering could, if we are resolute and if we do the job, reduce violent crime in this country by 50 percent.

The work of the 1972 commission called, first of all, for diversion of lesser cases. We had a pilot project in Philadelphia where I was district attorney which was a system where first offenders, without a prior record, would be called before a judge in an informal setting and told if the individual stayed out of trouble for a year, the incident would be forgotten. No determination of innocence or guilt—first offender, nonviolent, nonserious matter—and that the record would be expunged. In a criminal docket of some 30,000 cases, we eliminated 8,000 cases right off the top so that the courts could focus on the serious cases.

The 1972 commission recommended a policy which we had adopted in the Philadelphia district attorney's office for no plea bargaining. Plea bargaining is the scourge of the criminal justice system because violent criminals come into court with long histories and they

walk out sometimes with probation or without a sentence at all and very frequently with only a 6- to 12-month sentence.

The criminal justice system is really a mockery because the only point in bringing violent criminals to trial is to have a sentence and if you do not have a sentence, then the objective of the criminal law is not achieved. There has been a difficulty with adequacy of sentences in the States, where judges have not been willing to impose the kinds of sentences necessary for many reasons, including the unavailability of adequate prison space.

In the legislation which we are considering now, we are talking very substantial dollar figures for prison space. One of the bills which I introduced many years ago called for the Federal Government to house prisoners convicted under State habitual offenders statutes. If the State would sentence someone to life in prison after three or more violent crimes, there would be an inducement to do so, so the Federal Government would take over housing of those violent criminals. It is most appropriate because those are criminals who operate in interstate commerce, cross one State line to another, are frequently involved in drugs, which is really a Federal problem. So it made sense for the Federal Government to provide the prisons to house those criminals and to encourage States to impose life sentences for those career criminals, those habitual criminals.

It is necessary that the criminal justice system face up to the fact that realistic rehabilitation has to be a part of the process with drug treatment, and that is present in this bill; literacy training so that you do not have people released who cannot read and write; and job training so you do not have people released who do not have a trade or a skill.

When I was chairman of the District of Columbia Subcommittee of the Appropriations Committee back in 1983, 1984, 1985, and 1986, we provided for the District of Columbia job training and educational training with more than $20 million being directed to those pursuits. There was so much money there in an unusual way that David Stockman, the Director of Office of Management and Budget, threatened to have the President veto the District of Columbia appropriations bill, which was really unheard of. He did not have that done. But that was an effort on a modest scale to try to bring to bear some of the realities of rehabilitation so that people were not released from jail without an opportunity to pursue a meaningful employment line and also to protect society from repeat crimes of violence.

Later in the course of these proceedings, I will put in the RECORD other legislation which I have introduced which was directed to allocating 1 percent of the Federal budget to a variety of purposes, many of which are encompassed in the current legislative proposal, a $10 billion a year effort to try to fight violent crime.

There have been many statements on the floor about the need for swift and certain punishment, which is the essential ingredient of deterrence. A principal function of criminal law is to demonstrate that the law will be decisive in dealing with those who violate the law under the great slogan, "Crime doesn't pay."

When punishment is not swift and punishment is not certain, the opposite message goes out to the criminals and that message is: Crime does pay.

Regrettably, that is the view of the criminals in our society today. The street criminals know all the angles and they know all the tricks of the trade and they know when cases are being brought under the Federal system or the State system. They know about the long delays, they know about the absence of the death penalty, and they are on top of the game.

We recently put into effect in the Eastern District of Pennsylvania a program for the Federal courts to try drug cases. Federal courts and State courts each have jurisdiction over drug cases. The Federal courts are vastly preferable because there are prompt trials, within 90 days; there is preventive detention where that is appropriate, and there is tougher lines of sentencing. And now when people are arrested in Philadelphia on the street, on a drug case, the first thing the young hoodlums say is, "I am a State case, not a Federal case. Take me to the State court, not the Federal court." They understand more about jurisdiction than some of the Philadelphia lawyers. That is a very brief illustration of the way the word filters down.

(Mr. LEVIN assumed the chair.)

Mr. SPECTER. The hallmark of our criminal justice system, Mr. President, in my opinion, is the death penalty, and it is a very tough penalty, obviously. There are many people who oppose the death penalty on conscientious grounds, on grounds of morality, conscientious scruples. I respect those who oppose the death penalty, but I do believe it is a necessary weapon in the arsenal of society and the fight against violent crime.

I think the death penalty has to be very carefully imposed. When I was district attorney of Philadelphia, in a city which had 500 homicides a year, I carried on a practice which had been established by my predecessors that no assistant would ask for the death penalty unless the district attorney himself or herself—there is now a woman district attorney in Philadelphia, one of my former assistants. But the death penalty would not be sought except on that kind of very careful review. We asked for it in only a few cases. We made certain that we were dealing with repeat offenders. We made certain we were dealing with cases as ironclad as we could possibly make them.

There are competing provisions in legislation now pending before this body. One bill would call for the juries to impose the death penalty if the so-called aggravating factors outweigh the so-called mitigating factors. What that means in plain language is that when the jury considers what the penalty should be for murder in the first degree, whether it should be life or death, the jury will hear about the background of the defendant who has been convicted. If the defendant has had prior robberies, prior burglaries, or even prior murders, that is an aggravating factor. If the individual has a low IQ and has been in the military and has done good work, those would be mitigating factors.

One of the bills now pending would call for the jury to impose the death sentence where the aggravating factors outweigh the mitigating factors.

The bill now before us provides that the jury retains the discretion to decide when to impose life imprisonment or the death penalty. I believe that the provisions of this bill ought to be adopted by the Congress so that it is up to the discretion of the jury as they see fit on whether the death penalty is to be imposed.

The current legislation corrects a major problem which has long existed in the trial of capital cases where a death sentence may be imposed. That is by addressing head on the question of adequacy of counsel and requiring that anybody accused of a case where murder may be imposed would be represented by competent counsel, with a description of the kind of experience that individual must have and a requirement that there be court certification on adequacy of counsel.

The death penalty has been challenged on grounds that it is violative of the U.S. Constitution as being cruel and unusual punishment. Chief Justice Earl Warren wrote on this subject in a case called Trop versus Dulles back in 1958, and Chief Justice Warren is well known as one of the great civil libertarians on the Court and in fact was subjected to a great deal of criticism while he was Chief Justice for decisions by the Court which essentially said that Chief Justice Warren was too soft on crime. But this is what Chief Justice Earl Warren had to say about the constitutionality of the death penalty:

> At the outset, let us put to one side the death penalty as an index of the constitutional limit on punishment. Whatever the arguments may be against capital punishment, both on moral grounds and in terms of accomplishing the purpose of punishment—and they are forceful—the death penalty has been employed throughout our history, and in a day when it is still widely accepted, it cannot be said to violate the constitutional concept of cruelty.

One of the other great liberal Supreme Court Justices was Hugo Black, who was well known for his liberalism on individual rights and individual freedoms. Justice Black addressed the issue of the death penalty in the case of McGauthas versus California and had this to say in a 1971 decision:

The Eighth Amendment forbids cruel and unusual punishments. In my view, these words cannot be read to outlaw capital punishment because that penalty was in common use and authorized by law here and in the countries from which our ancestors came at the time the Amendment was adopted. It is inconceivable to me that the framers intended to end capital punishment by the Amendment. Although some people have urged that this Court should amend the Constitution by interpretation to keep it abreast of modern ideas, I have never believed that lifetime judges in our system have such legislative power.

The issue of capital punishment has been addressed by many judges, but I will cite one more illustration of the importance of capital punishment as viewed in our criminal justice system. In the 1976 case of Gregg versus Georgia, in an opinion by distinguished Supreme Court Justice, Justice Potter Stewart, the Court was dealing with the constitutionality of the way the death penalty was imposed, said the following:

Despite the continuing debate dating back to the 19th century over the morality and utility of capital punishment, it is now evident that a large portion of American society continues to regard it as an appropriate and necessary criminal sanction. The most marked indication of society's endorsement of the death penalty for murder is the legislative response to Furman. The legislators of at least 35 States have enacted new statutes to provide for the death penalty and for at least some crimes that result in the death of another person. The United States Congress in 1974 enacted a statute providing the death penalty for aircraft piracy that results in death. But all of the post-Furman statutes make clear that capital punishment itself has not been rejected by the elected representatives of the people.

Mr. President, capital punishment is favored by an overwhelming majority of the American people with the public opinion polls rating it somewhere with 70 percent approval, something in the range of 20 percent disapproval, and about 10 percent of the people undecided. That has resulted because of the commonsense views supported by our experience that capital punishment is a deterrent, that capital punishment does affect the way criminals conduct themselves.

One of the cases that I handled many years ago as an assistant district attorney illustrates in one case the deterrent value of capital punishment.

There were three young hoodlums named Williams, Cater, and Rivers who were about to embark upon a robbery in north Philadelphia. They were 19, 18, and 17, respectively. The oldest, Williams, had a gun, and Cater and Rivers, 18 and 17, said they would not go along on the robbery if Williams insisted on taking the gun. How do we know about that? We know that from the confessions of all three of the defendants.

Cater and Rivers had marginal IQ's, but they knew enough to be fearful of going on a robbery where a gun was taken and a murder might result and they might face the death penalty in Pennsylvania.

Williams assured them that he would not take the gun and put it in the drawer, slammed it shut, and then, unbeknownst to Cater and Rivers, the two younger men, Williams reached back in, took out the gun and put it in his belt.

They went into north Philadelphia and they robbed a grocer. In the course of the robbery, when the grocer resisted, Williams pulled the gun and shot and killed the grocer. Ultimately, Williams was executed and death sentences were also imposed on Cater and Rivers.

In a long case which followed, which I handled later when I became district attorney, I agreed that the death penalty ought not to be imposed on the two younger men because of the absence of the specific intent, although as a matter of law they were liable for what their co-conspirator Williams had done, and ultimately their sentences were commuted to life imprisonment.

There was another case where young men named Marks and Lighthouse, 17 and 18, knew enough not to want to go on a robbery where a gun was present because the death penalty might be imposed on them.

There were many cases which we saw day in and day out of robbers and burglars who were saying they were not carrying the weapon because they were afraid that the death penalty might be imposed.

There was a very fascinating opinion, a second opinion, filed by Justice McComb of the California Supreme Court in a case captioned People versus Love where Justice McComb cites some 14 cases which are illustrative of the principle that people are apprehensive about the death penalty and guide their conduct accordingly.

One of the cases cited by Justice McComb—this is a 1961 opinion—involved three people, Robert Thomas, Melvin Young, and Shirley Coffee—who were arrested for a robbery where they had used toy pistols. When questioned by the investigating officer as to the reasons for using toy guns instead of genuine guns, all three agreed that real guns were too dangerous, that if someone were killed in the commission of a robbery they could all receive the death penalty.

Justice McComb cites a case of Lewis Turck, arrested for robbery in California. Turck had used guns in prior robberies in other States but used a fake gun in the robbery in California. He told investigating officers that he was aware of the California death penalty, although he had been in the State for only 1 month, and said when asked why he had used a fake gun "I knew that if I used a real gun and if someone were shot in the robbery, I might get the death penalty and go to the gas chamber."

In a 1971 Los Angeles Police Department survey of some 99 persons arrested for violent crimes who did not carry a weapon over 50 percent of them, 50 of the 99, stated that they were deterred by fear of the death penalty from carrying or using weapons. Of the 49 respondents, 7 said they were unaffected by the death penalty because it was no longer in force; 10 would be undeterred by the death penalty and would kill or use violence even with the death penalty; and 32 said they were unaffected by the death penalty but claimed they did not use the weapon because of fear of injuring themselves or others.

The author of the book "Neither Cruel Nor Unusual," Frank Carrington, cites specific cases where people did not use guns for fear of the death penalty being imposed in the course of robberies. Carl Vance, distinguished former district attorney from Houston, TX, described in a 1973 article in a journal called, "The Prosecutor," a specific case involving an escapee from a Texas prison who did not kill a woman from whom he stole a car because as he later told police he feared the death penalty if he killed that hostage.

Mr. President, to abbreviate the statement, I ask unanimous consent that the 14 cases cited by Justice McComb appear at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. SPECTER. Mr. President, the delays on the imposition of the death penalty and the absence of an effective death penalty constitute an enormous gap of law enforcement in this country. When the Supreme Court of the United States declared capital punishment unconstitutional in the case of Furman versus Georgia in 1972, it did so because the court felt that it was necessary to avoid discrimination and to avoid unfairness, that a special procedure be put into effect so the juries would have before them the background of the individual so-called aggravating and mitigating circumstances in order to make the judgment.

The Federal Government had many crimes which carried the death penalty before the Furman decision, but because of the procedures of the Congress, because of our inactivity on this subject, and because of the rules allowing for extensive debate in this body, there was only one offense on the Federal books today which carries the death penalty, and that is a murder in furtherance of a conspiracy in the distribution of drugs.

If a President is assassinated, there is no Federal death penalty. If a terrorist kills an American citizen, there is no death penalty. If the individuals are convicted who were charged with the bombing and murders resulting from the bombing of the World Trade Center in New York, there can be no death penalty.

And in my judgment it is very important that the Federal Government act, as some 37 other States have acted, to reinstitute the death penalty. The State of New York has no death penalty. So if the convictions are obtained against the terrorists who committed the murders in the bombing of the Trade Center, the most they can get is life imprisonment.

If a convict in a Federal penitentiary murders a prison guard, after having been sentenced to life imprisonment, the most he can get is another sentence for life imprisonment. What earthly sense does that make?

There are, regrettably, Mr. President, enormous delays which are present in the State courts as a result of the procedures known as habeas corpus. What is habeas corpus? It is a Latin phrase which means have the body, habeas, have, corpus, body, have the body, where a person who is imprisoned may challenge the constitutionality of his conviction by filing a petition in the State court or filing a petition in the Federal court to try to upset the conviction.

And the delays in the habeas corpus system have been so long and so unreasonable as to have made the death penalty a laughing stock. And as the death penalty really is in our society, the hallmark of the criminal justice system because of its high visibility, it has really made punishment and deterrence a mockery and a laughing stock.

There are many, many cases which illustrate the phenomenal delays on the habeas corpus system.

I have had a chart prepared as to one of the cases. That case is present in the rear of the Chamber, and through the wonders of television, the charts can be viewed.

This is the case involving a man named Robert Alton Harris who was charged in July of 1978 with a double murder, and who pursued the case in court for some 14 years until April 1992.

On these charts the specifics are set forth about his trial and conviction, about his filing in the State courts of California 10 petitions for a writ of habeas corpus. There were filings in the Federal courts, six petitions for habeas corpus, and a case where he petitioned the Supreme Court of the United States for certiorari on some five occasions. Richard Hertling, who is supervising the charts, will bring over the color chart. I shall not take the time to read all of the entries on these five charts. There are 104 entries reflecting the complexity of this case through the court system.

This chart depicts the time line on the Harris case, with the blue signifying the State court delay and the red signifying the Federal court delay. And as the chart shows, there is an overlap, where sometimes the case was both in the Federal court and the State court; and as the chart shows, it lasted almost 15 years.

I will not take the time now to set forth the other cases—Beasley, Lesko versus Lehman, Campbell, and La Rette versus Delo—but they are illustrative of the delays in the system where those cases are not yet finished, and they have taken in excess of 10, 12 years each.

The legislation which is pending, Mr. President, attempts to address the problem of habeas corpus and delay in our dual court system. I intend to offer amendments which will provide for the handling of these cases in a way which will ensure justice to the defendants and, at the same time, will not result in such interminable, lengthy, excessive delay.

One of the problems exists because of a rule in the Federal courts that the Federal courts will not undertake Federal habeas corpus until there has been what is called an exhaustion of the State court remedies. That means that after an individual is convicted and the case is appealed to the Supreme Court of that State, the defendant can then go back to the trial court, file a petition for a writ of habeas corpus and litigate the same issues all over again. And it is obvious that when he goes back to the State court, the lower court judge is not going to do anything to upset the decision which has been made by the State supreme court. All there is, is lengthy delay.

There is only one issue customarily raised after trial, and that is the issue of competency of counsel, which can be handled as it has been in California, for example, by having the competency of counsel determined post trial, but before the appeal to the State supreme court. And under the provisions of this bill, providing for competent counsel—that should be a much lesser problem.

One of the amendments I intend to offer would be to provide for Federal jurisdiction, attaching after the first appeal from the State supreme court, to eliminate the current requirement of the exhausting of State court remedies, which has provided for such lengthy, really impossible delays of up to 10 years.

There is a controversy as to what is the scope of the Federal habeas corpus proceeding, and some have proposed legislation which would limit the Federal court proceeding to simply examining what happens in the State court as to whether there has been a full and fair review.

My amendment will provide that there will be a de novo hearing, which means that the Federal court will undertake an independent review of all of the factual claims and all of the legal claims, even if they were decided by the State court. And that provision is intended to ensure that constitutional protections will be present in the Federal system, and to ensure that the case will not bounce back and forth between the State and Federal courts again and again and again, which accounts for these tremendous delays.

The great delay which has been caused by successive petitions in the Federal courts is also dealt with in an amendment I will offer, by making the court of appeals the gatekeeper for the filing of a second or successive writ of petition for habeas corpus, an idea advanced by Chief Judge Jon Newman of the Second Circuit. So that if the individual is to have access to a successive Federal habeas corpus petition, that defendant must persuade the court of appeals of the grounds for such a petition on newly discovered evidence, or a subsequent decision which affects materially the question of guilt or innocence.

The provisions that I think need to be adopted also require a timetable for disposition in the Federal courts. In 1990, this point was introduced and passed the U.S. Senate. It would set a time limit for the handling by the district court.

Originally, the thought had been that the district court should handle the case in 120 days, but in order to eliminate concerns about the shortness of time, the time will be fixed at 150 days, which coincides with the time already established by one Federal court itself in one of the Federal court cases.

The Federal court consideration of death penalty cases ought to be a priority. It ought to take precedence over other pending matters, and this can be undertaken without any great inconvenience to the Federal courts.

If you will bring me the chart, Mr. Hertling. We have found, in examining the nationwide statistics, that in 1991 death penalty cases there were some 265 death sentences, where there are some 664 Federal judges, so that a judge would have to handle one of these cases once every 2 years. And in the three heaviest death penalty States—Florida, Texas, and California—the judges would have to handle one of these cases every 18 months to 2 years—in every State except Florida—and similarly in Pennsylvania.

Mr. SPECTER. I have handled such cases, and I know that a case can be handled within the course of a few days, and that it is a realistic timetable. The amendment which I will introduce will provide that if the district judge feels there are extenuating circumstances which require a longer period, the flexibility will be present.

There is no doubt about the authority of the Congress to establish timeliness, which we have already done, on

the Speedy Trial Act, where the courts are required as a matter of congressional declaration to handle the cases within the course of some 90 days. Similarly, there ought to be a time limit on the court of appeals and on the Supreme Court of the United States to try to bring a reasonably prompt conclusion to these cases.

Under this kind of a formula, these matters can be concluded within a 3-year period, instead of periods which run up to 17 years.

Mr. President, I am taking some time in outlining these provisions because I think they are very, very important, because death penalty cases are the hallmark of the criminal justice system, and the tremendous delays which are involved in the imposition of the death penalty have really made that whole system a laughing stock in this country and have ruled out the realistic possibility of deterrence.

The death penalty is a deterrent for reasons which I have elaborated on in this system, the steps with which they are to be acceptable if we are really to take hold of the problem of crime in America and structure a system which recognizes the importance of realistic rehabilitation where possible, life sentences for career criminals where rehabilitation is not possible, and a system which carries out the will of the public in some 37 States for the imposition of the death penalty where that has appropriately been imposed.

I thank my colleagues for their indulgence, and I yield the floor.

EXHIBIT 1

(i) Margaret Elizabeth Daly, of San Pedro, was arrested August 28, 1961, for assaulting Pete Gibbons with a knife. She stated to investigating officers: "Yeh, I cut him and I should have done a better job. I would have killed him but I didn't want to go to the gas chamber."

(ii) Robert D. Thomas, alias Robert Hall, an ex-convict from Kentucky; Melvin Eugene Young, alias Gene Wilson, a petty criminal from Iowa and Illinois; and Shirley R. Coffee, alias Elizabeth Salquist, of California, were arrested April 25, 1961, for robbery. They had used toy pistols to force their victims into rear rooms, where the victims were bound. When questioned by the investigating officers as to the reason for using toy guns instead of genuine guns, all three agreed that real guns were too dangerous, as if someone were killed in the commission of the robberies, they could all receive the death penalty.

(iii) Louis Joseph Turck, alias Luigi Furchiano, alias Joseph Farino, alias Glenn Hooper, alias Joe Moreno, an ex-convict with a felony record dating from 1941, was arrested May 20, 1961, for robbery. He had used guns in prior robberies in other states but simulated a gun in the robbery here. He told investigating officers that he was aware of the California death penalty although he had been in this state for only one month, and said, when asked why he had only simulated a gun, "I knew that if I used a real gun and that if I shot someone in a robbery, I might get the death penalty and go to the gas chamber."

(iv) Ramon Jesse Velarde was arrested September 26, 1960, while attempting to rob a supermarket. At that time, armed with a loaded .38 caliber revolver, he was holding several employees of the market as hostages. He subsequently escaped from jail and was apprehended at the Mexican border. While being returned to Los Angeles for prosecution, he made the following statement to the transporting officers: "I think I might have escaped at the market if I had shot one or more of them. I probably would have done it if it wasn't for the gas chamber. I'll only do 7 or 10 years for this. I don't want to die no matter what happens, you want to live another day."

(v) Orelius Mathew Stewart, an ex-convict with a long felony record, was arrested March 3, 1960, for attempted bank robbery. He was subsequently convicted and sentenced to the state prison. While discussing the matter with his probation officer, he stated: "The officer who arrested me was by himself, and if I had wanted, I could have blasted him. I thought about it at the time, but I changed my mind when I thought of the gas chamber."

(vi) Paul Anthony Brusseau, with a criminal record in six other states, was arrested February 6, 1960, for robbery. He readily admitted five holdups of candy stores in Los Angeles. In this series of robberies he had only simulated a gun. When questioned by investigators as to the reason for his simulating a gun rather than using a real one, he replied that he did not want to get the gas chamber.

(vii) Salvador A. Estrada, a 19-year old youth with a four-year criminal record, was arrested February 2, 1960, just after he had stolen an automobile from a parking lot by wiring around the ignition switch. As he was being booked at the station, he stated to the arresting officer: "I want to ask you one question, do you think they will repeal the capital punishment law. If they do, we can kill you cops and judges without worrying about it."

(viii) Jack Colevris, a habitual criminal with a record dating back to 1945, committed an armed robbery at a supermarket on April 25, 1960, about a week after escaping from San Quentin Prison. Shortly thereafter he was stopped by a motorcycle officer. Colevris, who had twice been sentenced to the state prison for armed robbery, knew that if brought to trial, he would again be sent to prison for a long term. The loaded revolver was on the seat of the automobile beside him and he could easily have shot and killed the arresting officer. By his own statements to interrogating officers, however, he was deterred from this action because he preferred a possible life sentence to death in the gas chamber.

(ix) Edward Joseph Lapienski, who had a criminal record dating back to 1948, was arrested in December 1959 for a holdup committed with a toy automatic type pistol. When questioned by investigators as to why he had threatened his victim with death and had not provided himself with the means of carrying out the threat, he stated, "I know that if I had a real gun and killed someone, I would get the gas chamber."

(x) George Hewlitt Dixon, an ex-convict with a long felony record in the East, was arrested for robbery and kidnaping committed on November 27, 1959. Using a screwdriver in his jacket pocket to simulate a gun, he had held up and kidnaped the attendant of a service station, later releasing him unharmed. When questioned about his using a screwdriver to simulate a gun, this man, a hardened criminal with many felony arrests and at least two known escapes from custody, indicated his fear and respect for the California death penalty and stated, "I did not want to get the gas."

(xi) Eugene Freeland Fitzgerald, alias Edward Finley, an ex-convict with a felony record dating back to 1951, was arrested February 2, 1960, for the robbery of a chain of candy stores. He used a toy gun in committing the robberies, and when questioned by the investing officers as to his reasons for doing so, he stated: "I know I'm going to the joint and probably for life. If I had a real gun and killed someone, I would get the gas. I would rather have it this way."

(xii) Quentin Lawson, an ex-convict on parole, was arrested January 24, 1959, for committing two robberies, in which he had simulated a gun in his coat pocket. When questioned on his reason for simulating a gun and not using a real one, he replied that he did not want to kill someone and get the death penalty.

(xiii) Theodore Roosevelt Cornell, with many aliases, an ex-convict from Michigan with a criminal record of 26 years, was arrested December 31, 1958, while attempting to hold up a box office of a theater. He had simulated a gun in his coat pocket, and when asked by investigating officers why an ex-convict with everything to lose would not use a real gun, he replied, "If I used a real gun and shot someone, I could lose my life."

(xiv) Robert Ellis Blood, Daniel B. Gridley, and Richard R. Hurst were arrested December 3, 1958, for attempted robbery. They were equipped with a roll of cord and a toy pistol. When questioned, all of them stated that they used the toy pistol because they did not want to kill anyone, as they were aware that the penalty for killing a person in a robbery was death in the gas chamber.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, on another occasion I am sure the Presiding Officer, the Senator from Michigan, and I will be pleased to respond to the Senator from Pennsylvania on the death penalty.

I want to in a few minutes express some concern about the pending amendment, and there is much that is good in the pending amendment.

I commend the Senator from West Virginia, the President pro tempore, for including additional police on the street. There is no question this is an important provision, and the violence against women provision of which I am a cosponsor. But I am going to cast a vote—if I may have order, Mr. President.

The PRESIDING OFFICER. The Senate will come to order.

Mr. SIMON. I am going to cast a vote against this amendment. I may be the only person in the Senate to do so, because it includes $3 billion for more prisons. It is sponsored by my friend, and he is my friend, the Senator from Utah, Senator HATCH, with whom I serve on two committees. We have worked together on a great many things. I have great respect for him.

But spending $3 billion more for prisons builds on a myth. It is a popular myth, but it is a myth.

In 1970, Mr. President, we had 134 people per 100,000 in our prisons, and we

thought we would solve the crime problem by putting more people into prisons. Today we have 455 people per 100,000 in our prisons. And is Washington, DC, safer today? Is Chicago safer today? Is Detroit safer today? Is Seattle safer today? Is Minneapolis safer today? We know the answer.

As we have put more people into prisons, our crime rate has grown. The reality is our prisons to some great degree are schools for crime. We have the highest percentage of people in prison of any country in the world, 455 per 100,000. South Africa is second at 311. Canada has 109.

We can spend $3 billion more this year on prisons and a few years from now we are going to be back being asked to spend $5 billion more, and we can spend it endlessly, and we are going to do virtually nothing to solve the crime problem.

Should people who commit violent crimes go to prison? You bet. We ought to be tough on them. Should people who are career criminals go to prison? You bet. We should be tough on them. But it just does not make sense, and among other things—and I would ask for order, Mr. President.

Mr. WELLSTONE. Mr. President, could we have order in the Chamber?

The PRESIDING OFFICER. The Senator is correct.

The Senate will come to order.

Mr. SIMON. In addition to everything else are the inequities of sentencing. If you are an African-American and you commit the same crime as some white suburban youth, the statistics are overwhelming. You are going to get a heavier sentence. If you are Hispanic-American and you commit the same crime as a white suburban youth, you are going to get a longer sentence. The statistics are simply overwhelming.

In addition to building regional prisons, this particular amendment takes the Federal sentencing provisions and imposes them on the States.

I do not know how satisfactory the State sentencing provisions are, but I hear from Federal judges all over the place, that the Federal sentencing guidelines and laws are a disaster. And why we should impose those on the States I do not know.

We ought to be looking for alternatives. Just recently in Illinois someone who was a public official who abused his office was sentenced to 5 years in Federal prison. And he appropriately is punished. He is in his midfifties. That is my guess anyway. Frankly, I think he ought to serve a little time in prison. He ought to serve maybe 90 days in prison, and then we ought to send him out to work in a halfway house, to work at a shelter for homeless people, have him serve society in a constructive way. Why spend $20,000 a year for 5 years keeping him in prison? It does not do him any good. It does not do the taxpayers any good.

If we want to spend $3 billion, why not spend some money on drug rehabilitation? I heard the senior Senator from Massachusetts today point out that in Federal prisons today 14 percent of the prisoners are given drug rehabilitation programs and of those 14 percent 70 percent are not returned to prison. Of the remainder who do not take the drug rehabilitation programs, 70 percent come back to prison.

Mr. BIDEN. Mr. President, will the Senator yield on that point just for clarification?

Mr. SIMON. I am pleased to yield to my colleague from Delaware.

Mr. BIDEN. The prison provisions allow the State to apply for this money and use it for drug rehabilitation in the prison.

Mr. SIMON. The chairman of the committee is absolutely correct, and there are a lot of other good provisions in here. But, frankly, instead of spending $3 billion for more prisons we ought to be spending more money on that kind of program.

Mr. BIDEN. If the Senator will yield again, I could not agree with him more, but we also have to get a bill and in order to get our friends to agree to 100,000 police officers and a few minor things that was part of the agreement.

Mr. SIMON. I understand.

I am going to cast a symbolic vote against it simply because I think spending 3 billion more dollars on prisons is just not a sensible procedure.

I see the majority leader, who is eagerly listening to every word I have to say but who now would like to interrupt to make a unanimous consent request, I assume.

Mr. MITCHELL. I thank my colleague for his usual perceptiveness.

The PRESIDING OFFICER. Is part of the request that the Senator from Illinois retain the floor after the request?

Mr. MITCHELL. It is now.

Mr. SIMON. I shall do that briefly, I think.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. I think I will accommodate him.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that in behalf of Senator BYRD I be permitted to modify his amendment with language that Senators BIDEN and DOLE have agreed on relative to the "violence against women" section of the amendment and the prison section of the amendment; that the Senate vote on the Byrd amendment No. 1103 at 11 p.m. this evening; that Senator DOLE be permitted to modify his amendment No. 1102 with language that he and Senator BOXER have agreed on; and that the yeas and nays on Senator DOLE's amendment be vitiated.

The PRESIDING OFFICER. Is there objection?

Mr. SIMON. Mr. President, reserving the right to object, and I will just take another 2 minutes, but I know the Senator from Virginia has been here some time. I do not know if he wants to speak on this amendment or object.

Mr. ROBB. I want 4 minutes if I could.

Mr. MITCHELL. The unanimous-consent request would call for a vote in 12 minutes. I will add to the request that following the modification of the amendment Senator SIMON be recognized for 2 or 3 additional minutes and Senator ROBB be recognized for 5 minutes.

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

AMENDMENT NO. 1102, AS MODIFIED

Mr. DOLE. Mr. President, I send a modification of my amendment to the desk, and I just say Senator BOXER recommended it as a good amendment. I ask the amendment be so modified.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 1102), as modified, is as follows:

On page 426, after line 25 add the following:

SEC. 2907. INCREASED PENALTIES FOR ARSON.

Section 844 of title 18, United States Code, is amended—

(1) in subsection (f)—

(A) by striking "ten years, or fined not more than $10,000" and inserting "not less than five years and not more than 20 years, fined the greater of $100,000 or the cost of repairing or replacing any property that is damaged or destroyed"; and

(B) by striking "twenty years, or fined not more than $10,000" and inserting "not less than five years and not more than 40 years, fined the greater of $200,000 or the cost of repairing or replacing any property that is damaged or destroyed";

(2) in subsection (h)—

(A) in the first sentence by striking "five years" and inserting "10 years"; and

(B) in the second sentence by striking "ten years" and inserting "20 years"; and

(3) in subsection (i)—

(A) by striking "ten years or fined not more than $10,000" and inserting "not less than five years and not more than 20 years, fined the greater of $100,000 or the cost of repairing or replacing any property that is damaged or destroyed"; and

(B) by striking "twenty years or fined not more than $10,000" and inserting "not less than five years and not more than 40 years, fined the greater of $200,000 or the cost of repairing or replacing any property that is damaged or destroyed".

Mr. DOLE. The yeas and nays have been vitiated on the other amendment.

The PRESIDING OFFICER. The yeas and nays have been vitiated.

Mr. MITCHELL. I believe the unanimous-consent request vitiated the yeas and nays by its terms. But we are not proposed to act on the amendment at this moment.

AMENDMENT NO. 1103, AS MODIFIED

Mr. MITCHELL. Now, pursuant to the agreement, if I have recognition, I would like to send to the desk on Senator BYRD's behalf a modification of his amendment.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 1103), as modified, is as follows:

At the appropriate place, insert the following:

Subtitle A—Regional Prisons and State Prisons

SEC. 1331. REGIONAL PRISONS FOR VIOLENT CRIMINALS AND VIOLENT CRIMINAL ALIENS.

(a) DEFINITIONS.—In this section—

"child abuse offense" means an offense under Federal or State law that constitutes sexual exploitation of children or selling or buying of children within the meaning of chapter 110 of title 18, United States Code.

"firearms offense" means an offense under Federal or State law committed while the offender is in possession of a firearm or while an accomplice of the offender, to the knowledge of the offender, is in possession of a firearm.

"crime of violence" means a felony offense under Federal or State law that is a crime of violence within the meaning of section 16 of title 18, United States Code.

"qualifying prisoner" means—

(A) an alien who is in this country illegally or unlawfully and who has been convicted of a crime of violence (as defined in section 924(c)(3) of title 18, United States Code) or a serious drug offense (as defined in section 924(e)(2)(A) of title 18, United States Code); and

(B) a violent criminal.

"sex offense" means an offense under Federal or State law that constitutes aggravated sexual abuse, sexual abuse, sexual abuse of a minor or ward, or abusive sexual contact within the meaning of chapter 109A of title 18, United States Code.

"violent criminal"—

(A) means a person convicted under Federal law of an offense described in, under the circumstances described in, the provisions of section 924 (c) or (e) of title 18 or section 994(h) of title 28, United States Code, or under State law for the same or a similar offense; and

(B) insofar as any of the circumstances described in an offense described in subparagraph (A) is the prior conviction of an offense, includes a person who had been adjudicated as a juvenile delinquent by reason of the commission of an act that, if committed by an adult, would constitute such an offense.

(b) CONSTRUCTION OF PRISONS.—The Attorney General shall, after consultation with state correctional administrators, construct, and operate a minimum of 10 regional prisons, situated throughout the United States, each containing space for at least 2,500 inmates. At least 75 percent of the overall capacity of such prisons in the aggregate shall be dedicated to qualifying prisoners from qualifying States.

(c) ACCEPTANCE OF PRISONERS.—Any qualifying State may apply to the Attorney General to accept any qualifying prisoner. If, in the Attorney General's judgment there are likely to be more qualifying prisoners than there is space available, then to the extent that the Attorney General deems it practicable, the Attorney General should seek to allocate space among qualifying States in a proportion similar to the number of qualifying prisoners held by that State in relation to the total number of qualifying prisoners from qualifying States.

(d) QUALIFYING STATE.—

(1) IN GENERAL.—The Attorney General shall not certify a State as a qualifying State under this section unless the State is providing—

(A) truth in sentencing with respect to any felony crime of violence involving the use or attempted use of force against a person, or use of a firearm against a person, for which a maximum sentence of 5 years or more is authorized that is consistent with that provided in the Federal system in chapter 229 of title 18, United States Code, which provides that defendants will serve at least 85 percent of the sentence ordered and which provides for a binding sentencing guideline system in which sentencing judges' discretion is limited to ensure greater uniformity in sentencing;

(B) pretrial detention similar to that provided in the Federal system under section 3142 of title 18, United States Code;

(C) sentence for firearm offenders, where death or serious bodily injury results, murderers, sex offenders, and child abuse offenders that, after application of relevant sentencing guidelines, result in the imposition of sentences that are at least as long as those imposed under Federal law (after application of relevant sentencing guidelines); and

(D) suitable recognition for the rights of victims, including consideration of the victim's perspective at all appropriate stages of criminal proceedings.

(2) DISQUALIFICATION.—The Attorney General shall withdraw a State's status as a qualifying State if the Attorney General finds that the State no longer appropriately provides for the matters described in paragraph (1) or has ceased making substantial progress toward attaining them, in which event the State shall no longer be entitled to the benefits of this section, except to the extent the Attorney General otherwise directs.

(3) WAIVER.—The Attorney General may waive, for no more than one year, any of the requirements of this subsection with respect to a particular State if the Attorney General certifies that, in the Attorney General's judgment, there are compelling law enforcement reasons for doing so. Any State granted any such waiver shall be treated as a qualifying State for all purposes of this subtitle, unless the Attorney General otherwise directs.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $600,000,000 for fiscal year 1994;
(2) $600,000,000 for fiscal year 1995;
(3) $600,000,000 for fiscal year 1996;
(4) $600,000,000 for fiscal year 1997; and
(5) $600,000,000 for fiscal year 1998.

Page 303, line 21;

Subtitle B—State Prisons

SEC. 1321. BOOT CAMPS AND PRISONS FOR VIOLENT DRUG OFFENDERS.

(a) DEFINITION.—In this section, "boot camp prison program" means a correctional program of not more than 6 months' duration involving—

(1) assignment for participation in the program, in conformity with State law, by prisoners other than prisoners who have been convicted at any time of a violent felony;

(2) adherence by inmates to a highly regimented schedule that involves strict discipline, physical training, and work;

(3) participation by inmates in appropriate education, job training, and substance abuse counseling or treatment; and

(4) aftercare services for inmates following release that are coordinated with the program carried out during the period of imprisonment.

(b) ESTABLISHMENT OF GRANT AND TECHNICAL ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Attorney General may make grants to States and to multi-State compact associations for the purposes of—

(A) developing, constructing, expanding, operating, and improving boot camp prison programs to medium security prisons;

(B) developing, constructing, and operating prisons that house and provide treatment for violent offenders with serious substance abuse problems; and

(C) assisting in activating existing boot camp or prison facilities that are unutilized or underutilized because of lack of funding.

(2) TECHNICAL ASSISTANCE.—The Attorney General may provide technical assistance to grantees under this section.

(3) UTILIZATION OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this section.

(c) STATE AND MULTI-STATE COMPACT APPLICATIONS.—

(1) IN GENERAL.—To request a grant under this section, the chief executive of a State or the coordinator of a multi-State compact association shall submit an application to the Attorney General in such form and containing such information as the Attorney General may prescribe by regulation or guidelines.

(2) CONTENT OF APPLICATION.—In accordance with the regulations or guidelines established by the Attorney General, an application for a grant under this section shall—

(A) include a long-term strategy and detailed implementation plan;

(B) include evidence of the existence of, and describe the terms of, a multi-State compact for any multiple-State plan;

(C) provide a description of any construction activities, including cost estimates, that will be a part of any plan;

(D) provide a description of the criteria for selection of prisoners for participating in a boot camp prison program or assignment to a regional prison or activated prison or boot camp facility that is to be funded;

(E) provide assurances that the boot camp prison program, regional prison, or activated prison or boot camp facility that receives funding will provide work programs, education, job training, and appropriate drug treatment for inmates;

(F) provide assurances that—

(i) prisoners who participate in a boot camp prison program or are assigned to a regional prison or activated prison or boot camp facility that receives funding will be provided with aftercare services; and

(ii) a substantial proportion of the population of any regional prison that receives funds under this section will be violent offenders with serious substance abuse problems, and provision of treatment for such offenders will be a priority element of the prison's mission;

(G) provide assurances that aftercare services will involve the coordination of the boot camp prison program, regional prison, or activated prison or boot camp facility, with other human service and rehabilitation programs (such as educational and job training programs, drug counseling or treatment, parole or other post-release supervision programs, halfway house programs, job placement programs, and participation in self-help and peer group programs) that reduce the likelihood of further criminality by prisoners who participate in a boot camp program or are assigned to a regional prison or activated prison or boot camp facility following release;

(H) explain the applicant's inability to fund the program adequately without Federal assistance;

(I) identify related governmental and community initiatives that complement or will be coordinated with the proposal;

(J) certify that there has been appropriate coordination with all affected agencies; and

(K) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support.

(d) LIMITATIONS ON FUNDS.—

(1) NONSUPPLANTING REQUIREMENT.—Funds made available under this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

(2) ADMINISTRATIVE COSTS.—No more than 5 percent of the funds available under this section may be used for administrative costs.

(3) MATCHING FUNDS.—The portion of the costs of a program provided by a grant under this section may not exceed 75 percent of the total cost of the program as described in the application.

(4) DURATION OF GRANTS.—

(A) IN GENERAL.—A grant under this section may be renewed for up to 3 years beyond the initial year of funding if the applicant demonstrates satisfactory progress toward achievement of the objectives set out in an approved application.

(B) MULTIYEAR GRANTS.—A multiyear grant may be made under this section so long as the total duration of the grant, including any renewals, does not exceed 4 years.

(e) CONVERSION OF PROPERTY AND FACILITIES AT CLOSED OR REALIGNED MILITARY INSTALLATIONS INTO BOOT CAMP PRISONS AND REGIONAL PRISONS.—

(1) DEFINITION.—In this subsection, "base closure law" means—

(A) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note);

(B) the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note);

(C) section 2687 of title 10, United States Code; and

(D) any other similar law.

(2) DETERMINATION OF SUITABILITY FOR CONVERSION.—Notwithstanding any base closure law, the Secretary of Defense may not take any action to dispose of or transfer any real property or facility located at a military installation to be closed or realigned under a base closure law until the Secretary notifies the Attorney General of any property or facility at that installation that is suitable for use as a boot camp prison or regional prison.

(3) TRANSFER.—The Secretary shall, upon the request of the Attorney General, transfer to the Attorney General, without reimbursement, the property or facilities covered by the notification referred to in paragraph (2) in order to permit the Attorney General to utilize the property or facilities as a boot camp prison or regional prison.

(4) REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall prepare and disseminate to State and local officials a report listing any real property or facility located at a military installation to be closed or realigned under a base closure law that is suitable for use as a boot camp prison or regional prison. The Attorney General shall periodically update this report for dissemination to State and local officials.

(5) APPLICABILITY.—This subsection shall apply with respect to property or facilities located at military installations the closure or realignment of which commences after the date of enactment of this Act.

(f) PERFORMANCE EVALUATION.—

(1) EVALUATION COMPONENTS.—

(A) IN GENERAL.—Each boot camp prison, regional prison, and activated prison or boot camp facility program funded under this section shall contain an evaluation component developed pursuant to guidelines established by the Attorney General.

(B) OUTCOME MEASURES.—The evaluations required by this paragraph shall include outcome measures that can be used to determine the effectiveness of the funded programs, including the effectiveness of such programs in comparison with other correctional programs or dispositions in reducing the incidence of recidivism.

(2) PERIODIC REVIEW AND REPORTS.—

(A) REVIEW.—The Attorney General shall review the performance of each grant recipient under this section.

(B) REPORTS.—The Attorney General may require a grant recipient to submit to the Attorney General the results of the evaluations required under paragraph (1) and such other data and information as the Attorney General deems reasonably necessary to carry out the Attorney General's responsibilities under this section.

(3) REPORT TO CONGRESS.—The Attorney General shall submit an annual report to Congress describing the grants awarded under this section and providing an assessment of the operations of the programs receiving grants.

(g) REVOCATION OR SUSPENSION OF FUNDING.—If the Attorney General determines, as a result of the reviews required by subsection (f), or otherwise, that a grant recipient under this section is not in substantial compliance with the terms and requirements of an approved grant application, the Attorney General may revoke or suspend funding of the grant in whole or in part.

(h) ACCESS TO DOCUMENTS.—The Attorney General and the Comptroller General shall have access for the purpose of audit and examination to—

(1) the pertinent books, documents, papers, or records of a grant recipient under this section; and

(2) the pertinent books, documents, papers, or records of other persons and entities that are involved in programs for which assistance is provided under this section.

(i) GENERAL REGULATORY AUTHORITY.—The Attorney General may issue regulations and guidelines to carry out this section.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $2,000,000,000, to remain available until expended.

(2) USE OF APPROPRIATED FUNDS.—No more than one-third of the amounts appropriated under paragraph (1) may be used to make grants for the construction, development, and operation of regional prisons under subsection (b)(1)(B).

Subtitle C—Grants Under the Juvenile Justice and Delinquency Prevention Act of 1974

"GRANTS FOR COMMUNITY-BASED VIOLENT-JUVENILE FACILITIES

"SEC. 238. (a) IN GENERAL.—The Attorney General, through the Bureau of Prisons, may make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, and operating secure facilities for violent and chronic juvenile offenders. The mandates required by the Juvenile Justice and Delinquency Prevention Act shall not apply to grants under this subtitle.

"(b) AUTHORIZATIONS.—There are authorized to be appropriated $100,000,000 for each of fiscal years 1994, 1995, 1996, 1997, 1998".

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violence Against Women Act of 1993".

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TITLE I—SAFE STREETS FOR WOMEN

SEC. 101. SHORT TITLE.

This title may be cited as the "Safe Streets for Women Act of 1993".

Subtitle A—Federal Penalties for Sex Crimes

SEC. 111. REPEAT OFFENDERS.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2247. Repeat offenders

"Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact have become final, is punishable by a term of imprisonment up to twice that otherwise authorized.".

(b) RECOMMENDATION BY THE SENTENCING COMMISSION.—The Sentencing Commission shall implement the amendment made by subsection (a) by recommending to the Congress amendments, if appropriate, in the sentencing guidelines applicable to chapter 109A offenses.

(c) CHAPTER ANALYSIS.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by adding at the end the following new item:

"2247. Repeat offenders.".

SEC. 112. FEDERAL PENALTIES.

(a) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend, where necessary, its sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, as follows:

(1) The Commission shall review and recommend amendments to the guidelines, if appropriate, to enhance penalties if more than 1 offender is involved in the offense.

(2) The Commission shall review and recommend amendments to the guidelines, if appropriate, to reduce unwarranted disparities between the sentences for sex offenders who are known to the victim and sentences for sex offenders who are not known to the victim.

(3) The Commission shall review and recommend amendments to the guidelines to enhance penalties, if appropriate, to render Federal penalties on Federal territory commensurate with penalties for similar offenses in the States.

(4) The Commission shall review and recommend amendments to the guidelines, if appropriate, to account for the general problem of recidivism in cases of sex offenses, the severity of the offense, and its devastating effects on survivors.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission shall review and submit to Congress a report containing an analysis of Federal rape sentencing, accompanied by comment from independent experts in the field, describing—

(1) comparative Federal sentences for cases in which the rape victim is known to the defendant and cases in which the rape victim is not known to the defendant;

(2) comparative Federal sentences for cases on Federal territory and sentences in surrounding States; and

(3) an analysis of the effect of rape sentences on populations residing primarily on Federal territory relative to the impact of other Federal offenses in which the existence of Federal jurisdiction depends upon the offense's being committed on Federal territory.

SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) SEXUAL ABUSE.—(1) Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, expert witness and investigators' fees, interpretive services, and court costs; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim for the victim's other losses before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.".

(2) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2248. Mandatory restitution.".

(b) SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN.—(1) Chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2259. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, expert witness and investigators' fees, interpretive services, and court costs; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim for the victim's other losses before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.".

(2) The table of sections for chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following:

"2259. Mandatory restitution.".

SEC. 114. AUTHORIZATION FOR FEDERAL VICTIM'S COUNSELORS.

There is authorized to be appropriated for fiscal year 1994, $1,500,000 for the United States Attorneys for the purpose of appointing Victim/Witness Counselors for the prosecution of sex crimes and domestic violence crimes where applicable (such as the District of Columbia).

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(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 4 of Public Law 102-521 (106 Stat. 3404), is amended by—

(1) redesignating part Q as part R;

(2) redesignating section 1701 as section 1801; and

(3) adding after part P the following new part:

"PART Q—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"SEC. 1701. PURPOSE OF THE PROGRAM AND GRANTS.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, Indian tribes, cities, and other localities to develop effective law enforcement and prosecution strategies to combat violent crimes against women and, in particular, to focus efforts on those areas with the highest rates of violent crime against women.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide additional personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

"(3) developing and implementing police and prosecution policies, protocols, or orders specifically devoted to identifying and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, prosecutions, and convictions for the crimes of sexual assault and domestic violence; and

"(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, to increase reporting and reduce attrition rates for cases involving violent crimes against women, including the crimes of sexual assault and domestic violence.

"Subpart 1—High Intensity Crime Area Grants

"SEC. 1711. HIGH INTENSITY GRANTS.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') shall make grants to areas of 'high intensity crime' against women.

"(b) DEFINITION.—For purposes of this part, 'high intensity crime area' means an area with one of the 40 highest rates of violent crime against women, as determined by the Bureau of Justice Statistics pursuant to section 1712.

"SEC. 1712. HIGH INTENSITY GRANT APPLICATION.

"(a) COMPUTATION.—Within 45 days after the date of enactment of this part, the Bureau of Justice Statistics shall compile a list of the 40 areas with the highest rates of violent crime against women based on the combined female victimization rate per population for assault, sexual assault (including, but not limited to, rape), murder, robbery, and kidnapping (without regard to the relationship between the crime victim and the offenders).

"(b) USE OF DATA.—In calculating the combined female victimization rate required by subsection (a), the Bureau of Justice Statistics may rely on—

"(1) existing data collected by States, municipalities, Indian reservations or statistical metropolitan areas showing the number of police reports of the crimes listed in subsection (a); and

"(2) existing data collected by the Federal Bureau of Investigation, including data from those governmental entities already complying with the National Incident Based Reporting System, showing the number of police reports of crimes listed in subsection (a).

"(c) PUBLICATION.—After compiling the list set forth in subsection (a), the Bureau of Justice Statistics shall convey it to the Director who shall publish it in the Federal Register.

"(d) QUALIFICATION.—Upon satisfying the terms of subsection (e), any high intensity crime area shall be qualified for a grant under this subpart upon application by the chief executive officer of the governmental entities responsible for law enforcement and prosecution of criminal offenses within the area and certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1701(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate program grants, with nongovernmental nonprofit victim services programs; and

"(3) at least 25 percent of the amount granted shall be allocated, without duplication, to each of the following three areas: prosecution, law enforcement, and victim services.

"(e) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application must provide the certifications required by subsection (d) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (d)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds;

"(C) expected results from the use of grant funds; and

"(D) demographic characteristics of the population to be served, including age, marital status, disability, race, ethnicity, and language background; and

"(2) include proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) DISBURSEMENT.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served;

"(C) give priority to areas with the greatest showing of need; and

"(D) recognize and address the needs of underserved populations.

"(g) GRANTEE REPORTING.—(1) Upon completion of the grant period under this subpart, the grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this part.

"(2) A section of the performance report shall be completed by each grantee or subgrantee performing the services contemplated in the grant application, certifying performance of the services under the grants.

"(3) The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if funds are expended for purposes other than those set forth under this subpart. Federal funds may be used to supplement, not supplant, State funds.

"Subpart 2—Other Grants to States To Combat Violent Crimes Against Women

"SEC. 1721. GENERAL GRANTS TO STATES.

"(a) GENERAL GRANTS.—The Director may make grants to States, for use by States, units of local government in the States, and nonprofit nongovernmental victim services programs in the States, for the purposes outlined in section 1701(b), and to reduce the rate of violent crimes against women.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be—

"(1) $500,000 to each State; and

"(2) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any State shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1701(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs; and

"(3) at least 25 percent of the amount granted shall be allocated, without duplication, to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application shall include the certifications of qualification required by subsection (c) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (c)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds;

"(C) expected results from the use of grant funds; and

"(D) demographic characteristics of the populations to be served, including age, marital status, disability, race, ethnicity and language background; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(e) DISBURSEMENT.—(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for

under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that States will—

"(A) give priority to areas with the greatest showing of need;

"(B) determine the amount of subgrants based on the population and geographic area to be served;

"(C) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000; and

"(D) recognize and address the needs of underserved populations.

"(f) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee and subgrantee that performed the direct services contemplated in the application, certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if funds are expended for purposes other than those set forth under this subpart. Federal funds may only be used to supplement, not supplant, State funds.

"SEC. 1722. GENERAL GRANTS TO TRIBES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1701(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of $35,000 and maximum grants of $300,000.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1701(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate with nonprofit; and

"(3) at least 25 percent of the grant funds shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—(1) Applications shall be made directly to the Director and shall contain a description of the tribes' law enforcement responsibilities for the Indian country described in the application and a description of the tribes' system of courts, including whether the tribal government operates courts of Indian offenses under section 201 of Public Law 90-284 (25 U.S.C. 1301) or part 11 of title 25, Code of Federal Regulations.

"(2) Applications shall be in such form as the Director may prescribe and shall specify the nature of the program proposed by the applicant tribe, the data and information on which the program is based, and the extent to which the program plans to use or incorporate existing victim services available in the Indian country where the grant will be used.

"(3) The term of any grant shall be for a minimum of 3 years.

"(e) GRANTEE REPORTING.—At the end of the first 12 months of the grant period and at the end of each year thereafter, the Indian tribal grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee or subgrantee that performed the direct services contemplated in the application, certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if funds are expended for purposes other than those set forth under this subpart. Federal funds may only be used to supplement, not supplant, State funds.

"(f) DEFINITIONS.—(1) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

"(2) The term 'Indian country' has the meaning stated in section 1151 of title 18, United States Code.

"Subpart 3—General Terms and Conditions

"SEC. 1731. GENERAL DEFINITIONS.

"As used in this part—

"(1) the term 'victim services' means any nongovernmental nonprofit organization that assists victims, including rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process;

"(2) the term 'prosecution' means any public agency charged with direct responsibility for prosecuting criminal offenders, including such agency's component bureaus (such as governmental victim/witness programs);

"(3) the term 'law enforcement' means any public agency charged with policing functions, including any of its component bureaus (such as governmental victim services programs);

"(4) the term 'sexual assault' includes not only assaults committed by offenders who are strangers to the victim but also assaults committed by offenders who are known or related by blood or marriage to the victim;

"(5) the term 'domestic violence' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or committed by any other adult person upon a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies; and

"(6) the term 'underserved populations' includes populations underserved because of geographic location (such as rural isolation), underserved racial or ethnic populations, and populations underserved because of special needs, such as language barriers or physical disabilities.

"SEC. 1732. GENERAL TERMS AND CONDITIONS.

"(a) NONMONETARY ASSISTANCE.—In addition to the assistance provided under subparts 1 or 2, the Director may direct any Federal agency, with or without reimbursement, to use 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.

"(b) BUREAU REPORTING.—No later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Judiciary Committees of the House and the Senate a report that includes, for each high intensity crime area (as provided in subpart 1) and for each State and for each grantee Indian tribe (as provided in subpart 2)—

"(1) the amount of grants made under this part;

"(2) a summary of the purposes for which those grants were provided and an evaluation of their progress;

"(3) a statistical summary of persons served, detailing the nature of victimization, and providing data on age, sex, relationship of victim to offender, geographic distribution, race, ethnicity, language, and disability; and

"(4) a copy of each grantee report filed pursuant to sections 1712(g), 1721(f) and 1722(c).

"(c) REGULATIONS.—No later than 90 days after the date of enactment of this part, the Director shall publish proposed regulations implementing this part. No later than 120 days after such date, the Director shall publish final regulations implementing this part.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1994, 1995, and 1996, $100,000,000 to carry out subpart 1, and $190,000,000 to carry out subpart 2, and $10,000,000 to carry out section 1722 of subpart 2.".

(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 Q and inserting the following:

"Part Q—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"Sec. 1701. Purpose of the program and grants.

"SUBPART 1—HIGH INTENSITY CRIME AREA GRANTS

"Sec. 1711. High intensity grants.

"Sec. 1712. High intensity grant application.

"SUBPART 2—OTHER GRANTS TO STATES TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"Sec. 1721. General grants to States.

"Sec. 1722. General grants to tribes.

"SUBPART 3—GENERAL TERMS AND CONDITIONS

"Sec. 1731. General definitions.

"Sec. 1732. General terms and conditions.

"PART R—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1801. Continuation of rules, authorities, and proceedings.".

Subtitle C—Safety for Women in Public Transit and Public Parks

SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.

Section 24 of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1620) is amended to read as follows:

"GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION

"SEC. 24. (a) GENERAL PURPOSE.—From funds authorized under section 21, not to exceed $10,000,000, the Secretary shall make

capital grants for the prevention of crime and to increase security in existing and future public transportation systems. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.

"(b) GRANTS FOR LIGHTING, CAMERA SURVEILLANCE, AND SECURITY PHONES.—

"(1) From the sums authorized for expenditure under this section for crime prevention, the Secretary is authorized to make grants and loans to States and local public bodies or agencies for the purpose of increasing the safety of public transportation by—

"(A) increasing lighting within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(B) increasing camera surveillance of areas within and adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(C) providing emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages; or

"(D) any other project intended to increase the security and safety of existing or planned public transportation systems.

"(2) From the sums authorized under this section, at least 75 percent shall be expended on projects of the type described in subsection (b)(1) (A) and (B).

"(c) REPORTING.—All grants under this section are contingent upon the filing of a report with the Secretary and the Department of Justice, Office of Victims of Crime, showing crime rates in or adjacent to public transportation before, and for a 1-year period after, the capital improvement. Statistics shall be broken down by type of crime, sex, race, ethnicity, language, and relationship of victim to the offender.

"(d) INCREASED FEDERAL SHARE.—Notwithstanding any other provision of this Act, the Federal share under this section for each capital improvement project which enhances the safety and security of public transportation systems and which is not required by law (including any other provision of this chapter) shall be 90 percent of the net project cost of such project.

"(e) SPECIAL GRANTS FOR PROJECTS TO STUDY INCREASING SECURITY FOR WOMEN.—From the sums authorized under this section, the Secretary shall provide grants and loans for the purpose of studying ways to reduce violent crimes against women in public transit through better design or operation of public transit systems.

"(f) GENERAL REQUIREMENTS.—All grants or loans provided under this section shall be subject to all the terms, conditions, requirements, and provisions applicable to grants and loans made under section 2(a).".

SEC. 132. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN NATIONAL PARKS.

Public Law 91-383 (commonly known as the National Park System Improvements in Administration Act) (16 U.S.C. 1a-1 et seq.) is amended by adding at the end the following new section:

"SEC. 13. NATIONAL PARK SYSTEM CRIME PREVENTION ASSISTANCE.

"(a) From the sums authorized pursuant to section 7 of the Land and Water Conservation Act of 1965, not to exceed $10,000,000, the Secretary of the Interior may provide Federal assistance to reduce the incidence of violent crime in the National Park System.

"(b) The Secretary shall direct the chief official responsible for law enforcement within the National Park Services to—

"(1) compile a list of areas within the National Park System with the highest rates of violent crime;

"(2) make recommendations concerning capital improvements, and other measures, needed within the National Park System to reduce the rates of violent crime, including the rate of sexual assault; and

"(3) publish the information required by paragraphs (1) and (2) in the Federal Register.

"(c) No later than 120 days after the date of enactment of this section, and based on the recommendations and list issued pursuant to subsection (b), the Secretary shall distribute funds throughout the National Park Service. Priority shall be given to those areas with the highest rates of sexual assault.

"(d) Funds provided under this section may be used for the following purposes:

"(1) To increase lighting within or adjacent to public parks and recreation areas.

"(2) To provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas.

"(3) To increase security or law enforcement personnel within or adjacent to public parks and recreation areas.

"(4) Any other project intended to increase the security and safety of public parks and recreation areas.".

SEC. 133. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC PARKS.

Section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-8) is amended by adding at the end the following new subsection:

"(h) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed $15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) fund any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding subsection (c), the Secretary may provide 70 percent improvement grants for projects undertaken by any State for the purposes outlined in this subsection. The remaining share of the cost shall be borne by the State.".

Subtitle D—National Commission on Violence Against Women

SEC. 141. ESTABLISHMENT.

Not later than 30 days after the date of enactment of this Act, there shall established a commission to be known as the National Commission on Violence Against Women (referred to in this subtitle as the "Commission").

SEC. 142. GENERAL PURPOSES OF COMMISSION.

(a) GENERAL PURPOSE OF THE COMMISSION.—The Commission shall recommend Federal, State, and local strategies for preventing and sanctioning violent crime against women, including the enhancement and protection of the rights of the victims of such crimes.

(b) FUNCTIONS.—The purposes of the Commission shall include—

(1) evaluating the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women and to punish those responsible for such crime;

(2) evaluating the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluating the adequacy of rules of evidence, practice and procedure to ensure the effective prosecution and conviction of violent offenders against women and to protect victims from abuse in legal proceedings, making recommendations, where necessary, to improve those rules;

(4) evaluating the adequacy of pretrial release, sentencing, incarceration, and post-conviction release for crimes that predominantly affect women, such as rape and domestic violence;

(5) evaluating the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(6) evaluating the adequacy of, and make recommendations regarding, the adequacy of State and Federal Laws on domestic violence and the need for a more uniform statutory response to domestic violence;

(7) evaluating the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crimes;

(8) assessing the issuance, formulation, and enforcement of protective orders, whether or not related to a criminal proceeding, and making recommendations for their more effective use in domestic violence and stalking cases;

(9) assessing the problem of stalking and persistent menacing and recommending effective means of response to the problem; and

(10) evaluating the adequacy of, and make recommendations regarding, the national public awareness and the public dissemination of information essential to the prevention of violent crimes against women.

SEC. 143. MEMBERSHIP.

(a) IN GENERAL.—The Commission shall consist of 12 members, as follows:

(A) PRESIDENT.—Four individuals, not more than two of whom shall be of the same major political party.

(B) SENATE.—Four individuals, two appointed by the Majority Leader and two by the Minority Leader.

(C) HOUSE OF REPRESENTATIVES.—Four individuals, two appointed by the Majority Leader and two by the Minority Leader.

(b) REPRESENTATION.—The Commission members shall be chosen based on their education, training, or experience, and shall include representatives of State and local law enforcement, judicial administration, prosecution, legal experts, persons devoted to the protection of victims' rights, persons providing services to the victims of sexual assault or domestic violence, and survivors of violence.

(c) VACANCIES.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

SEC. 144. COMMISSION OPERATIONS.

(a) MEETINGS.—The Commission shall hold its first meeting not later than 90 days after the date of enactment of this Act. After the initial meeting, the Commission shall meet at least 6 times.

(b) CHAIR.—Not later than 15 days after the members of the Commission are appointed, the President shall designate a chair from among the members of the Commission.

(c) PAY.—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(d) PER DIEM.—Except as provided in subsection (c), members of the Commission shall be allowed travel and other expenses including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

SEC. 145. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President, the Senate Majority Leader, the Senate Republican Leader, the House Majority Leader, the House Republican Leader, and to the congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) CONTENTS.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

SEC. 146. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Commission shall have an Executive Director who shall be appointed by the Chair, with the approval of the Commission, not later than 30 days after the Chair is selected.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable for a position above GS-15 of the General Schedule contained in title 5, United States Code.

(b) STAFF.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Task Force.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

SEC. 147. POWERS OF COMMISSION.

(a) HEARINGS.—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) DELEGATION.—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) ACCESS TO INFORMATION.—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chair of the Commission.

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

SEC. 148. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $500,000 for fiscal year 1994.

SEC. 149. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144.

Subtitle E—New Evidentiary Rules

SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

(a) RULE.—The Federal Rules of Evidence are amended by inserting after rule 412 the following new rule:

"Rule 412A. Evidence of victim's past behavior in other criminal cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other law, in a criminal case, other than a sex offense case governed by rule 412, reputation or opinion evidence of the past sexual behavior of an alleged victim is not admissible.

"(b) ADMISSIBILITY.—Notwithstanding any other law, in a criminal case, other than a sex offense case governed by rule 412, evidence of an alleged victim's past sexual behavior (other than reputation and opinion evidence) may be admissible if—

"(1) the evidence is admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of the evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the alleged victim's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the alleged victim.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At the hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence is amended by inserting after the item relating to rule 412 the following new item:

"412A. Evidence of victim's past behavior in other criminal cases:

"(a) Reputation and opinion evidence excluded.

"(b) Admissibility.

"(c) Procedures.".

SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

(a) RULE.—The Federal Rules of Evidence, as amended by section 151, are amended by adding after rule 412A the following new rule:

"Rule 412B. Evidence of past sexual behavior in civil cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other law, in a civil case in which a defendant is accused of actionable sexual misconduct, reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

"(b) ADMISSIBLE EVIDENCE.—Notwithstanding any other law, in a civil case in which a defendant is accused of actionable sexual misconduct, evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

"(1) it is admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of the evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the plaintiff's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under

this paragraph shall be served on all other parties and on the plaintiff.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At the hearing, the parties may call witnesses, including the plaintiff and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence that the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for the purpose, shall accept evidence on the issue of whether the condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2) that the evidence the defendant seeks to offer is relevant and not excluded by any other evidentiary rule, and that the probative value of the evidence outweighs the danger of unfair prejudice, the evidence shall be admissible in the trial to the extent an order made by the court specifies evidence that may be offered and areas with respect to which the plaintiff may be examined or cross-examined. In its order, the court should consider—

"(A) the chain of reasoning leading to its finding of relevance; and

"(B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.

"(d) DEFINITIONS.—For purposes of this rule, a case involving a claim of actionable sexual misconduct, includes sexual harassment or sex discrimination claims brought pursuant to title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)) and gender bias claims brought pursuant to title III of the Violence Against Women Act of 1993.".

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence, as amended by section 151, is amended by inserting after the item relating to rule 412A the following new item:

"412B. Evidence of past sexual behavior in civil cases:

"(a) Reputation and opinion evidence excluded.

"(b) Admissible evidence.

"(c) Procedures.

"(d) Definitions.".

SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.

(a) RULE.—Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end the following new subdivisions:

"(e) INTERLOCUTORY APPEAL.—Notwithstanding any other law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

"(f) RULE OF RELEVANCE AND PRIVILEGE.—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim."; and

(2) by adding at the end of subdivision (c)(3) the following: "In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence is amended by adding at the end the item relating to rule 412 the following:

"(e) Interlocutory appeal.

"(f) Rule of relevance and privilege.".

SEC. 154. EVIDENCE OF CLOTHING.

(a) RULE.—The Federal Rules of Evidence, as amended by section 152, are amended by adding after rule 412B the following new rule:

"Rule 413. Evidence of victim's clothing as inciting violence

"Notwithstanding any other law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged.".

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence, as amended by section 152, is amended by inserting after the item relating to rule 412B the following new item:

"413. Evidence of victim's clothing as inciting violence.".

Subtitle F—Assistance to Victims of Sexual Assault

SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended by adding at the end the following new section:

"SEC. 1910A. USE OF ALLOTMENTS FOR RAPE PREVENTION EDUCATION.

"(a) PERMITTED USE.—Notwithstanding section 1904(a)(1), amounts transferred by the State for use under this part may be used for rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities, which programs may include—

"(1) educational seminars;

"(2) the operation of hotlines;

"(3) training programs for professionals;

"(4) the preparation of informational materials; and

"(5) other efforts to increase awareness of the facts about, or to help prevent, sexual assault, including efforts to increase awareness in underserved racial, ethnic, and language minority communities.

"(b) TARGETING OF EDUCATION PROGRAMS.—States providing grant monies must ensure that at least 25 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $65,000,000 for each of fiscal years 1994, 1995, and 1996.

"(d) LIMITATION.—Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) DEFINITION.—For purposes of this section, the term 'rape prevention and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim.

"(f) TERMS.—States shall be allotted funds under this section pursuant to the terms of sections 1902 and 1903, and subject to the conditions provided in this section and sections 1904 through 1909.".

SEC. 162. RAPE EXAM PAYMENTS.

(a) No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1993 unless the State or other grantee incurs the full cost of forensic medical exams for victims of sexual assault. A State or other grantee does not incur the full medical cost of forensic medical exams if it chooses to reimburse the victim after the fact unless the reimbursement program waives any minimum loss or deductible requirement, provides victim reimbursement within a reasonable time (90 days), permits applications for reimbursement within one year from the date of the exam, and provides information to all subjects of forensic medical exams about how to obtain reimbursement.

(b) Within 90 days after the enactment of this Act, the Director of the Office of Victims of Crime shall propose regulations to implement this section, detailing qualified programs. Such regulations shall specify the type and form of information to be provided victims, including provisions for multilingual information, where appropriate.

SEC. 163. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ABUSE OF FEMALE RUNAWAY, HOMELESS, AND STREET YOUTH.

Part A of the Runaway and Homeless Youth Act (42 U.S.C. 5711 et seq.) is amended by—

(1) redesignating sections 316 and 317 as sections 317 and 318, respectively; and

(2) inserting after section 315 the following new section:

"GRANTS FOR PREVENTION OF SEXUAL ABUSE AND EXPLOITATION

"SEC. 316. (a) IN GENERAL.—The Secretary shall make grants under this section to private, nonprofit agencies for street-based outreach and education, including treatment, counseling, and information and referral, for female runaway, homeless, and street youth who have been subjected to or are at risk of being subjected to sexual abuse.

"(b) PRIORITY.—In selecting among applicants for grants under subsection (a), the Secretary shall give priority to agencies that have experience in providing services to female runaway, homeless, and street youth.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 1994, 1995, and 1996.

"(d) DEFINITIONS.—For the purposes of this section—

"(1) the term 'street-based outreach and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim; and

"(2) the term 'street youth' means a female less than 21 years old who spends a significant amount of time on the street or in other areas of exposure to encounters that may lead to sexual abuse.".

SEC. 164. 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 new subdivision:

"(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) the term 'victim' means any person 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 in case the victim is below the age of 18 years or incompetent; or

"(B) 1 or more family members or relatives designated by the court in case the victim is deceased or incapacitated,

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present; and

"(2) the term '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.".

TITLE II—SAFE HOMES FOR WOMEN

SEC. 201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1993".

Subtitle A—Family Violence Prevention and Services Act Amendments

SEC. 211. GRANT FOR A NATIONAL DOMESTIC VIOLENCE HOTLINE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding at the end the following new section:

"SEC. 316. NATIONAL DOMESTIC VIOLENCE HOTLINE GRANT.

"(a) IN GENERAL.—The Secretary may award a grant to a private, nonprofit entity to provide for the operation of a national, toll-free telephone hotline to provide information and assistance to victims of domestic violence.

"(b) ACTIVITIES.—Funds received by an entity under this section shall be utilized to open and operate a national, toll-free domestic violence hotline. Such funds may be used for activities including—

"(1) contracting with a carrier for the use of a toll-free telephone line;

"(2) employing, training and supervising personnel to answer incoming calls and provide counseling and referral services to callers on a 24-hour-a-day basis;

"(3) assembling, maintaining, and continually updating a database of information and resources to which callers may be referred throughout the United States; and

"(4) publicizing the hotline to potential users throughout the United States.

"(c) APPLICATION.—A grant may not be made under this section unless an application for such grant has been approved by the Secretary. To be approved by the Secretary under this subsection an application shall—

"(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register;

"(2) include a complete description of the applicant's plan for the operation of a national domestic violence hotline, including descriptions of—

"(A) the training program for hotline personnel;

"(B) the hiring criteria for hotline personnel;

"(C) the methods for the creation, maintenance and updating of a resource database; and

"(D) a plan for publicizing the availability of the hotline;

"(3) demonstrate that the applicant has nationally recognized expertise in the area of domestic violence and a record of high quality service to victims of domestic violence; and

"(4) contain such other information as the Secretary may require.

"(d) SPECIAL CONSIDERATIONS.—In considering an application under subsection (c), the Secretary shall also take into account the applicant's ability to offer multilingual services and services for the hearing impaired.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $500,000 for each of fiscal years 1994, 1995, and 1996.".

Subtitle B—Interstate Enforcement

SEC. 221. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following new chapter:

"CHAPTER 110A—VIOLENCE AGAINST SPOUSES

"Sec. 2261. Traveling to commit spousal abuse.
"Sec. 2262. Interstate violation of protection orders.
"Sec. 2263. Interim protections.
"Sec. 2264. Restitution.
"Sec. 2265. Full faith and credit given to protection orders.
"Sec. 2266. Definitions.

"§ 2261. Traveling to commit spousal abuse

"(a) IN GENERAL.—Any person who travels across a State line with the intent to injure, harass, intimidate his or her spouse or intimate partners and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner shall be punished as provided in subsection (c).

"(b) CAUSING THE CROSSING OF A STATE LINE.—Any person who causes a spouse or intimate partner to cross a State line by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner shall be punished as provided in subsection (c).

"(c) PENALTIES.—A person who violates this section shall be punished as follows:

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; if serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States), by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

"(5) In a case not described in paragraph (1), (2), (3), or (4), by fine under this title or imprisonment for not more than 5 years, or both.

"(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) does not require a showing of the specific intent to violate the law of a State.

"(e) NO PRIOR STATE ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction or a prior civil protection order issued under State law to initiate Federal prosecution.

"§ 2262. Interstate violation of protection orders

"(a) IN GENERAL.—Any person against whom a valid protection order has been entered who—

"(1) travels across a State line with the intent to injure, harass, intimidate, or contact a spouse or intimate partner; and

"(2) commits an act that injures, harasses, or intimidates a spouse or intimate partner or otherwise violates a valid protection order issued by a State,

shall be punished as provided in subsection (c).

"(b) CAUSING THE CROSSING OF A STATE LINE.—Any person who causes a spouse or intimate partner to cross a State line by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c).

"(c) PENALTIES.—A person who violates this section shall be punished as follows:

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; if serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than 6 months, or both.

"(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States), by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

"(6) In a case not described in paragraph (1), (2), (3), (4), or (5), by fine under this title or imprisonment for not more than 5 years, or both.

"(d) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) does not require a showing of the specific intent to violate a protection order or the law of any State.

"(e) NO PRIOR STATE ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to initiate Federal prosecution.

"§ 2263. Pretrial release of defendant

"In any proceeding pursuant to section 3142 of this title for the purpose of determining whether a defendant charged under this section shall be released pending trial, or for the purpose of determining conditions of such release, the alleged victim shall be given an opportunity to be heard regarding the danger posed by the defendant.

"§ 2264. Restitution

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding section 3663, the court shall order restitution to the victim of an offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) An order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) A restitution order under this section is mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

"(4)(A) Notwithstanding paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the offender, including obligations to dependents.

"(B) An order under this section may direct the defendant to make a single lump-sum payment, or partial payments at specified intervals. The order shall provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(C) If the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim for the victim's other losses before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this subsection, shall be in camera in the judge's chambers.

"(4) If the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such an order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) RESTITUTION AND CRIMINAL PENALTIES.—An award of restitution to the victim of an offense under this chapter shall not be a substitute for imposition of punishment under sections 2261 and 2262.

"(e) DEFINITIONS.—For purposes of this section, the term 'victim' includes the person harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such a representative or guardian.

"§ 2265. Full faith and credit given to protection orders

"(a) FULL FAITH AND CREDIT.—Any protection order issued consistent with subsection (b) by the court of 1 State (the issuing State) shall be accorded full faith and credit by the court of another State (the enforcing State) and enforced as if it were the order of the enforcing State.

"(b) PROTECTION ORDER.—(1) A protection order issued by a State court is consistent with this subsection if—

"(A) the court has jurisdiction over the parties and matter under the law of the State; and

"(B) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process.

"(2) In the case of an order under paragraph (1) that is issued ex parte, notice and opportunity to be heard shall be provided within the time required by State law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

"(c) CROSS- OR COUNTER-PETITION.—A protection order issued by a State court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

"(1) no cross- or counter-petition, complaint, or other written pleading was filed seeking such a protection order; or

"(2) if a cross- or counter-petition has been filed, if the court did not make specific findings that each party was entitled to such an order.

"§ 2266. Definitions

"As used in this chapter—

"(1) the term 'spouse or intimate partner' includes—

"(A) a present or former spouse, a person who shares a child in common with an abuser, and a person who cohabits or has cohabited with an abuser as a spouse; and

"(B) any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides, or any other adult person who is protected from an abuser's acts under the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

"(2) the term 'protection order' includes an injunction or other order issued for the purpose of preventing violent or threatening acts by 1 spouse against his or her spouse or intimate partner, including a temporary or final order issued by a civil or criminal court (other than a support or child custody order or provision) whether obtained by filing an independent action or as a pendente lite order in another proceeding, so long as, in the case of a civil order, the order was issued in response to a complaint, petition, or motion filed by or on behalf of an abused spouse or intimate partner;

"(3) the term 'act that injures' includes any act, except one done in self-defense, that results in physical injury or sexual abuse;

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

"(5) the term 'travel across a State line' includes any travel except travel across a State line by an Indian tribal member when that member remained at all times on tribal lands.".

(b) TECHNICAL AMENDMENT.—The part analysis for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following new item:

"110A. Violence against spouses ... 2261.".

Subtitle C—Arrest in Spousal Abuse Cases

SEC. 231. ENCOURAGING ARREST POLICIES.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by section 211, is amended by adding at the end the following new section:

"SEC. 317. ENCOURAGING ARREST POLICIES.

"(a) PURPOSE.—To encourage States, Indian tribes and localities to treat spousal violence as a serious violation of criminal law, the Secretary may make grants to eligible States, Indian tribes, municipalities, or local government entities for the following purposes:

"(1) To implement pro-arrest programs and policies in police departments and to improve tracking of cases involving spousal abuse.

"(2) To centralize police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges.

"(3) To coordinate computer tracking systems to ensure communication between police, prosecutors, and both criminal and family courts.

"(4) To educate judges in criminal and other courts about spousal abuse and to improve judicial handling of such cases.

"(b) ELIGIBILITY.—(1) Eligible grantees are those States, Indian tribes, municipalities or other local government entities that—

"(A) demonstrate, through arrest and conviction statistics, that their laws or policies have been effective in significantly increasing the number of arrests made of spouse abusers;

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed; or

"(ii) permit warrantless arrests of spouse abusers, encourage the use of that authority, and mandate arrest of spouses violating the terms of a valid and outstanding protection order;

"(C) demonstrate that their laws, policies, practices and training programs discourage 'dual' arrests of abused and abuser;

"(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protection order, and require findings of mutual aggression to issue mutual protection orders in cases where both parties file a claim; *and*

"(E) certify that their laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony spouse abuse offense, that the abused bear the costs associated with the filing of criminal charges or the service of such charges on an abuser; or that the abused bear the costs associated with the issuance or service of a warrant, protection order or witness subpoena.

"(2) For purposes of this section—

"(A) the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including a temporary or final order issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding; and

"(B) the term 'spousal or spouse abuse' includes a felony or misdemeanor offense committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabited with the victim as a spouse, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or committed by any other adult person upon a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(3) The eligibility requirements provided in this section shall take effect on the date that is 1 year after the date of enactment of this section.

"(c) DELEGATION AND AUTHORIZATION.—The Secretary shall delegate to the Attorney General of the United States the Secretary's responsibilities for carrying out this section. There are authorized to be appropriated not in excess of $25,000,000 for each fiscal year to be used for the purpose of making grants under this section.

"(d) APPLICATION.—An eligible grantee shall submit an application to the Secretary. Such an application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribe, municipality, or local government entity that the conditions of subsection (b) are met;

"(2) describe the entity's plans to further the purposes listed in subsection (a);

"(3) identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(4) identify and include documentation showing the nonprofit nongovernmental victim services programs that will be consulted in developing, and implementing, the program.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a grantee that—

"(1) does not currently provide for centralized handling of cases involving spousal or family violence in any one of the areas listed in this subsection—police, prosecutors, and courts; and

"(2) demonstrates a commitment to strong enforcement of laws, and prosecution of cases, involving spousal or family violence.

"(f) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described in subsection (d)(2) and containing such additional information as the Secretary may prescribe.

"(g) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.".

Subtitle D—DOMESTIC VIOLENCE, FAMILY SUPPORT, AND SHELTER GRANTS

SEC. 241. DOMESTIC VIOLENCE AND FAMILY SUPPORT GRANT PROGRAM.

(a) PURPOSE.—The purpose of this section is to strengthen and improve State and local efforts to prevent and punish domestic violence and other criminal and unlawful acts that particularly affect women, and to assist and protect the victims of such crimes and acts.

(b) AUTHORIZATION OF GRANTS.—The Secretary of Health and Human Services shall make grants to support projects and programs relating to domestic violence and other criminal and unlawful acts that particularly affect women, including support of—

(1) training and policy development programs for law enforcement officers and prosecutors concerning the investigation and prosecution of domestic violence;

(2) law enforcement and prosecutorial units and teams that target domestic violence;

(3) model, innovative, and demonstration law enforcement programs relating to domestic violence that involve pro-arrest and aggressive prosecution policies;

(4) model, innovative, and demonstration programs for the effective utilization and enforcement of protective orders;

(5) programs addressing stalking and persistent menacing;

(6) victim services programs for victims of domestic violence;

(7) educational and informational programs relating to domestic violence;

(8) resource centers providing information, technical assistance, and training to domestic violence service providers, agencies, and programs;

(9) coalitions of domestic violence service providers, agencies, and programs;

(10) training programs for judges and court personnel in relation to cases involving domestic violence;

(11) enforcement of child support obligations, including cooperative efforts and arrangements of States to improve enforcement in cases involving interstate elements; and

(12) shelters that provide services for victims of domestic violence and related programs.

(c) FORMULA GRANTS.—Of the amount appropriated in each fiscal year for grants under this section, other than the amount set aside to carry out subsection (d)—

(1) 1 percent shall be set aside for each participating State; and

(2) the remainder shall be allocated to the participating States in proportion to their populations;

for the use of State and local governments in the States.

(d) DISCRETIONARY GRANTS.—Of the amount appropriated in each fiscal year, 20 percent shall be set aside in a discretionary fund to provide grants to public and private agencies to further the purposes and objectives set forth in subsections (a) and (b).

(e) APPLICATION FOR FORMULA GRANTS.—To request a grant under subsection (c), the chief executive officer of a State must, in each fiscal year, submit to the Secretary a plan for addressing domestic violence and other criminal and unlawful acts that particularly affect women in the State, including a specification of the uses to which funds provided under subsection (c) will be put in carrying out the plan. The application must include—

(1) certification that the Federal funding provided will be used to supplement and not supplant State and local funds;

(2) certification that any requirement of State law for review by the State legislature or a designated body, and any requirement of State law for public notice and comment concerning the proposed plan, have been satisfied; and

(3) provisions for fiscal control, management, recordkeeping, and submission of reports in relation to funds provided under this section that are consistent with requirements prescribed for the program.

(f) CONDITIONS ON GRANTS.—

(1) MATCHING FUNDS.—Grants under subsection (c) may be for up to 50 percent of the overall cost of a project or program funded. Discretionary grants under subsection (d) may be for up to 100 percent of the overall cost of a project or program funded.

(2) DURATION OF GRANTS.—Grants under subsection (c) may be provided in relation to a particular project or program for up to an aggregate maximum period of 4 years.

(3) LIMIT ON ADMINISTRATIVE COSTS.—Not more than 5 percent of a grant under subsection (c) may be used for costs incurred to administer the grant.

(g) EVALUATION.—The Secretary shall have the authority to carry out evaluations of programs funded under this section. The recipient of any grant under this section may be required to include an evaluation component to determine the effectiveness of the project or program funded that is consistent with guidelines issued by the Secretary.

(h) REPORT.—The Secretary shall submit an annual report to Congress concerning the operation and effectiveness of the program under this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $100,000,000 for each of fiscal years 1994, 1995, and 1996; and

(2) such sums as are necessary for each fiscal year thereafter.

(j) AUTHORIZATION OF APPROPRIATIONS FOR THE FAMILY VIOLENCE PREVENTION AND SERVICES ACT.—Section 310(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10409(a)) is amended to read as follows:

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title $85,000,000 for fiscal year 1994, $100,000,000 for fiscal year 1995, and $125,000,000 for fiscal year 1996.".

Subtitle E—Family Violence Prevention and Services Act Amendments

SEC. 251. GRANTEE REPORTING.

(a) SUBMISSION OF APPLICATION.—Section 303(a)(2)(C) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(2)(C)) is amended by inserting "and a plan to address the needs of underserved populations, including populations underserved because of ethnic, racial, cultural, language diversity or geographic isolation" after "such State".

(b) APPROVAL OF APPLICATION.—Section 303(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)) is amended by adding at the end the following new paragraph:

"(4) Upon completion of the activities funded by a grant under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee or subgrantee that performed the direct services contemplated in the application certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if the funds are expended for purposes other than those set forth under this subpart, after following the procedures set forth in paragraph (3). Federal funds may be used only to supplement, not supplant, State funds.".

Subtitle F—Youth Education and Domestic Violence

SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by section 231, is amended by adding at the end the following new section:

"SEC. 318. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

"(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate the Secretary's powers to the Secretary of Education (hereafter in this section referred to as the 'Secretary'). The Secretary shall select, implement and evaluate 4 model programs for education of young people about domestic violence and violence among intimate partners.

"(b) NATURE OF PROGRAM.—The Secretary shall select, implement and evaluate separate model programs for 4 different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. The model programs shall be selected, implemented, and evaluated in the light of the comments of educational experts, legal and psychological experts on battering, and victim advocate organizations such as battered women's shelters, State coalitions and resource centers. The participation of each of those groups or individual consultants from such groups is essential to the selection, implementation, and evaluation of programs that meet both the needs of educational institutions and the needs of the domestic violence problem.

"(c) REVIEW AND DISSEMINATION.—Not later than 2 years after the date of enactment of this section, the Secretary shall transmit the design and evaluation of the model programs, along with a plan and cost estimate for nationwide distribution, to the relevant committees of Congress for review.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $400,000 for fiscal year *1994*.".

Subtitle G—Confidentiality for Abused Persons

SEC. 271. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.

Not later than 90 days after enactment of this Act, the United States Postal Service shall promulgate regulations to secure the confidentiality of domestic violence shelters and abused persons' addresses consistent with the following guidelines:

(1) Confidentiality shall be provided to a person upon the presentation to an appropriate postal official of a valid court order or a police report documenting abuse.

(2) Confidentiality shall be provided to any domestic violence shelter upon presentation to an appropriate postal authority of proof from a State domestic violence coalition (within the meaning of section 311 of the Family Violence Prevention and Services Act (42 U.S.C. 10410)) verifying that the organization is a domestic violence shelter.

(3) Disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited.

(4) Compilations of addresses existing at the time the order is presented to an appropriate postal official shall be excluded from the scope of the proposed regulations.

Subtitle H—Technical Amendments

SEC. 281. DEFINITIONS.

Section 309(5)(B) of the Family Violence Prevention and Services Act (42 U.S.C. 10408(5)(B)) is amended by inserting "or other supportive services" before "by peers individually or in groups,".

SEC. 282. SPECIAL ISSUE RESOURCE CENTERS.

(a) GRANTS.—Section 308(a)(2) of the Family Violence Prevention and Services Act (42 U.S.C. 10407(a)(2)) is amended by striking "six" and inserting "seven".

(b) FUNCTIONS.—Section 308(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10407(c)) is amended—

(1) by striking the period at the end of paragraph (6) and inserting ", including the issuance and enforcement of protection orders."; and

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

"(7) Providing technical assistance and training to State domestic violence coalitions.".

SEC. 283. STATE DOMESTIC VIOLENCE COALITIONS.

Section 311(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10410(a)) is amended—

(1) by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (3), (4), and (5);

(2) by inserting before paragraph (2), as redesignated by paragraph (1), the following new paragraph:

"(1) working with local domestic violence programs and providers of direct services to encourage appropriate responses to domestic violence within the State, including—

"(A) training and technical assistance for local programs and professionals working with victims of domestic violence;

"(B) planning and conducting State needs assessments and planning for comprehensive services;

"(C) serving as an information clearinghouse and resource center for the State; and

"(D) collaborating with other governmental systems which affect battered women;";

(3) in paragraph (2)(K), as redesignated by paragraph (1), by striking "and court officials and other professionals" and inserting ", judges, court officers and other criminal justice professionals,";

(4) in paragraph (3), as redesignated by paragraph (1)—

(A) by inserting ", criminal court judges," after "family law judges," each place it appears;

(B) in subparagraph (F), by inserting "custody" after "temporary"; and

(C) in subparagraph (H), by striking "supervised visitations that do not endanger victims and their children," and inserting "supervised visitations or denial of visitation to protect against danger to victims or their children"; and

(5) in paragraph (4), as redesignated by paragraph (1), by inserting ", including information aimed at underserved racial, ethnic or language-minority populations" before the semicolon.

Subtitle I—Data and Research

SEC. 291. RESEARCH AGENDA.

(a) REQUEST FOR CONTRACT.—The Director of the National Institute of Justice shall request the National Academy of Sciences, through its National Research Council, to enter into a contract to develop a research agenda to increase the understanding and control of violence against women, including rape and domestic violence. In furtherance of the contract, the National Academy shall convene a panel of nationally recognized experts on violence against women, in the fields of law, medicine, criminal justice and the social sciences. In setting the agenda, the Academy shall focus primarily upon preventive, educative, social, and legal strategies. Nothing in this section shall be construed to invoke the terms of the Federal Advisory Committee Act.

(b) DECLINATION OF REQUEST.—If the National Academy of Sciences declines to conduct the study and develop a research agenda, it shall recommend a nonprofit private entity that is qualified to conduct such a study. In that case, the Director of the National Institute of Justice shall carry out subsection (a) through the nonprofit private entity recommended by the Academy. In either case, whether the study is conducted by the National Academy of Sciences or by the nonprofit group it recommends, the funds for the contract shall be made available from sums appropriated for the conduct of research by the National Institute of Justice.

(c) REPORT.—The Director of the National Institute of Justice shall ensure that no later than 9 months after the date of enactment of this Act, the study required under subsection (a) is completed and a report describing the findings made is submitted to the Committee on the Judiciary of the House of Representatives, the Committee on the Judiciary of the Senate, and the Attorney General's Task Force on Violence Against Women.

SEC. 292. STATE DATABASES.

(a) IN GENERAL.—The National Institute of Justice, in conjunction with the Bureau of Justice Statistics, shall study and report to the States and to Congress on how the States may collect centralized databases on the incidence of domestic violence offenses within a State.

(b) CONSULTATION.—In conducting its study, the National Institute of Justice shall consult persons expert in the collection of criminal justice data, State statistical administrators, law enforcement personnel, and nonprofit nongovernmental agencies that provide direct services to victims of domestic violence. The Institute's final report shall set forth the views of the persons consulted on the Institute's recommendations.

(c) REPORT.—The Director of the National Institute of Justice shall ensure that no later than 9 months after the date of enactment of this Act, the study required under subsection (a) is completed and a report describing the findings made is submitted to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized such sums as are necessary to carry out this section.

SEC. 293. NUMBER AND COST OF INJURIES.

(a) STUDY.—The Secretary of Health and Human Services, acting through the Centers for Disease Control Injury Control Division, shall conduct a study to obtain a national projection of the incidence of injuries resulting from domestic violence, the cost of injuries to health care facilities, and recommend health care strategies for reducing the incidence and cost of such injuries.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000 for fiscal year 1994.

TITLE III—CIVIL RIGHTS

SEC. 301. SHORT TITLE.

This title may be cited as the "Civil Rights Remedies for Gender-Motivated Violence Act".

SEC. 302. CIVIL RIGHTS.

(a) FINDINGS.—The Congress finds that—

(1) crimes of violence motivated by gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender;

(2) current law provides a civil rights remedy for gender crimes committed in the workplace, but not for crimes of violence motivated by gender committed on the street or in the home;

(3) State and Federal criminal laws do not adequately protect against the bias element of crimes of violence motivated by gender, which separates these crimes from acts of random violence, nor do those laws adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests;

(4) existing bias and discrimination in the criminal justice system often deprives victims of crimes of violence motivated by gender of equal protection of the laws and the redress to which they are entitled;

(5) crimes of violence motivated by gender have a substantial adverse effect on interstate commerce, by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business, and in places involved, in interstate commerce;

(6) crimes of violence motivated by gender have a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products;

(7) a Federal civil rights action as specified in this section is necessary to guarantee equal protection of the laws and to reduce the substantial adverse effects on interstate commerce caused by crimes of violence motivated by gender. and

(8) the victims of crimes of violence motivated by have a right to equal protection of the laws, including a system of justice that is unaffected by bias or discrimination and that, at every relevant stage, treats such crimes as seriously as other violent crimes.

(b) RIGHT TO BE FREE FROM CRIMES OF VIOLENCE.—All persons within the United States shall have the right to be free from crimes of violence motivated by gender (as defined in subsection (d)).

(c) CAUSE OF ACTION.—A person (including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State) who commits a crime of violence motivated by gender and thus deprives another of the right declared in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as a court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means a crime of violence committed because of gender or on the basis of gender; and due, at least in part, to an animus based on the victim's gender;

(2) the term "crime of violence" means—

(A) an act or series of acts that would constitute a felony against the person or that would constitute a felony against property if the conduct presents a serious risk of physical injury to another, and that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States; and

(B) includes an act or series of acts that would constitute a felony described in subparagraph (A) but for the relationship between the person who takes such action and the individual against whom such action is taken.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be motivated by gender (within the meaning of subsection (d)).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the elements of a cause of action under subsection (c).

(3) CONCURRENT JURISDICTION.—The Federal and State courts shall have concurrent jurisdiction over actions brought pursuant to this title.

(4) PENDENT JURISDICTION.—Neither section 1367 of title 28, United States Code, nor subsection (c) of this section shall be construed, by reason of a claim arising under such subsection, to confer on the courts of the United States jurisdiction over any State law claim seeking the establishment of a divorce, alimony, equitable distribution of marital property, or child custody decree.

(5) LIMITATION ON REMOVAL.—Section 1445 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(d) A civil action in any State court arising under section 302 of the Violence Against Women Act of 1993 may not be removed to any district court of the United States.".

SEC. 303. ATTORNEY'S FEES.

Section 722 of the Revised Statutes (42 U.S.C. 1988) is amended in the last sentence—

(1) by striking "or" after "Public Law 92-318,"; and

(2) by inserting ", or title III of the Violence Against Women Act of 1993," after "1964".

SEC. 304. SENSE OF THE SENATE CONCERNING PROTECTION OF THE PRIVACY OF RAPE VICTIMS.

(a) FINDINGS AND DECLARATION.—The Congress finds and declares that—

(1) there is a need for a strong and clear Federal response to violence against women, particularly with respect to the crime of rape;

(2) rape is an abominable and repugnant crime, and one that is severely underreported to law enforcement authorities because of its stigmatizing nature;

(3) the victims of rape are often further victimized by a criminal justice system that is insensitive to the trauma caused by the crime and are increasingly victimized by news media that are insensitive to the victim's emotional and psychological needs;

(4) rape victims' need for privacy should be respected;

(5) rape victims need to be encouraged to come forward and report the crime of rape without fear of being revictimized through involuntary public disclosure of their identities;

(6) rape victims need a reasonable expectation that their physical safety will be protected against retaliation or harassment by an assailant;

(7) the news media should, in the exercise of their discretion, balance the public's interest in knowing facts reported by free news media against important privacy interests of a rape victim, and an absolutist view of the public interest leads to insensitivity to a victim's privacy interest; and

(8) the public's interest in knowing the identity of a rape victim is small compared with the interests of maintaining the privacy of rape victims and encouraging rape victims to report and assist in the prosecution of the crime of rape.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that news media, law enforcement officers, and other persons should exercise restraint and respect a rape victim's privacy by not disclosing the victim's identity to the general public or facilitating such disclosure without the consent of the victim.

TITLE IV—SAFE CAMPUSES FOR WOMEN

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

Section 1541(i) of the Higher Education Amendments of 1992 (20 U.S.C. 1145h(i)) is amended to read as follows:

"(i) For the purpose of carrying out this part, there are authorized to be appropriated $20,000,000 for fiscal year 1994 and such sums as are necessary for fiscal years 1995, 1996, and 1997.".

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT

SECTION 501. SHORT TITLE.

This title may be cited as the "Equal Justice for Women in the Courts Act of 1993".

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

SEC. 511. GRANTS AUTHORIZED.

The State Justice Institute may award grants for the purpose of developing, testing, presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

SEC. 512. TRAINING PROVIDED BY GRANTS.

Training provided pursuant to grants made under this subtitle may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses, sentencing, and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that may subject victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims of rape, sexual assault, and incest may refuse to testify against a defendant;

(10) the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' inability to leave the batterer, to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel, and the legitimate reasons why victims of domestic violence may refuse to testify against a defendant;

(18) the need for orders of protection, and the implications of mutual orders of protection, dual arrest policies, and mediation in domestic violence cases;

(19) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims; and

(20) current information on the impact of pornography on crimes against women, or data on other activities that tend to degrade women.

SEC. 513. COOPERATION IN DEVELOPING PROGRAMS IN MAKING GRANTS UNDER THIS TITLE.

The State Justice Institute shall ensure that model programs carried out pursuant to grants made under this subtitle are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 514. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $600,000 for fiscal year 1994. Of amounts appropriated under this section, the State Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

SEC. 521. AUTHORIZATIONS OF CIRCUIT STUDIES; EDUCATION AND TRAINING GRANTS.

(a) STUDY.—In order to gain a better understanding of the nature and the extent of gender bias in the Federal courts, the circuit judicial councils are encouraged to conduct studies of the instances, if any, of gender bias in their respective circuits. The studies may include an examination of the effects of gender on—

(1) the treatment of litigants, witnesses, attorneys, jurors, and judges in the courts, including before magistrate and bankruptcy judges;

(2) the interpretation and application of the law, both civil and criminal;

(3) treatment of defendants in criminal cases;

(4) treatment of victims of violent crimes;

(5) sentencing;

(6) sentencing alternatives, facilities for incarceration, and the nature of supervision of probation and parole;

(7) appointments to committees of the Judicial Conference and the courts;

(8) case management and court sponsored alternative dispute resolution programs;

(9) the selection, retention, promotion, and treatment of employees;

(10) appointment of arbitrators, experts, and special masters; and

(11) the aspects of the topics listed in section 512 that pertain to issues within the jurisdiction of the Federal courts.

(b) CLEARINGHOUSE.—The Judicial Conference of the United States shall designate an entity within the Judicial branch to act as a clearinghouse to disseminate any reports and materials issued by the gender bias task forces under subsection (a) and to respond to requests for such reports and materials. The gender bias task forces shall provide this entity with their reports and related material.

(c) MODEL PROGRAMS.—The Federal Judicial Center, in carrying out section 620(b)(3) of title 28, United States Code, may—

(1) include in the educational programs it presents and prepares, including the training programs for newly appointed judges, information on issues related to gender bias in the courts including such areas as are listed in subsection (a) along with such other topics as the Federal Judicial Center deems appropriate;

(2) prepare materials necessary to implement this subsection; and

(3) take into consideration the findings and recommendations of the studies conducted pursuant to subsection (a), and to consult with individuals and groups with relevant expertise in gender bias issues as it prepares or revises such materials.

SEC. 522. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated—

(1) $400,000 to the Salaries and Expenses Account of the Courts of Appeals, District Courts, and other Judicial Services, to carry out section 521(a), to be available until expended through fiscal year *1995*;

(2) $100,000 to the Federal Judicial Center to carry out section 521(c) and any activities designated by the Judicial Conference under section 521(b); and

(3) such sums as are necessary to the Administrative Office of the United States Courts to carry out any activities designated by the Judicial Conference under section 521(b).

(b) THE JUDICIAL CONFERENCE OF THE UNITED STATES.—(1) The Judicial Conference of the United States Courts shall allocate funds to Federal circuit courts under this subtitle that—

(A) undertake studies in their own circuits; or

(B) implement reforms recommended as a result of such studies in their own or other circuits, including education and training.

(2) Funds shall be allocated to Federal circuits under this subtitle on a first come first serve basis in an amount not to exceed $50,000 on the first application. If within 6 months after the date on which funds authorized under this Act become available, funds are still available, circuits that have received funds may reapply for additional funds, with not more than $200,000 going to any one circuit.

TITLE VI—VIOLENCE AGAINST WOMEN ACT IMPROVEMENTS

SEC. 601. PRE-TRIAL DETENTION IN SEX OFFENSE CASES.

Section 3156(a)(4) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; or"; and

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) any felony under chapter 109A or chapter 110.".

SEC. 602. INCREASED PENALTIES FOR SEX OFFENSES AGAINST VICTIMS BELOW THE AGE OF 16.

Section 2245(2) of title 18, United States Code, 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 inserting after subparagraph (C) 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 arouse or gratify the sexual desire of any person;".

SEC. 603. PAYMENT OF COST OF HIV TESTING IN SEX OFFENSE CASES.

(a) FOR VICTIMS—

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)(7)) is amended by adding at the end the following: "The Attorney General shall authorize the Director of the Office of Victims of Crime to provide for the payment of the cost of up to two tests of the victim for the

human immunodeficiency virus during the 12 months following a serious assault, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of the human immunodeficiency virus to the victim as the result of the assault.".

(b)—TESTING OF CERTAIN INDIVIDUALS CHARGED WITH CERTAIN SEXUAL OFFENSES FOR THE PRESENCE OF THE ETIOLOGIC AGENT FOR AIDS—

Victims of any offense of the type described in Chapter 109A of title 18, United States Code, shall after appropriate counseling, on request, be provided with

(1) anonymous and confidential testing for the presence of the etiologic agent for acquired immune deficiency syndrome, and counseling concerning such, at no cost by appropriately trained staff operating through appropriate service providers, including rape crisis centers, community health centers, public health clinics, physicians, or other appropriate service providers; follow-up tests and counseling will be available at no cost on dates that occur three, six and twelve months following the initial test; and

(2) necessary and appropriate medical care.

LIMITED TESTING OF DEFENDANTS—

(1) Court Order—The victim of an offense of the type referred to in subsection (a) may obtain an order in the district court of the United States for the district in which charges are brought against the defendant charged with the offense, after notice to the defendant and an opportunity to be heard, requiring that the defendant be tested for the presence of the etiologic agent for acquired immune deficiency syndrome, and that the results of the test be communicated to the victim and the defendant. Any test result of the defendant given to the victim or the defendant must be accompanied by appropriate counseling.

(2) Showing Required—To obtain an order under paragraph (1), the victim must demonstrate that—

(A) the defendant has been charged with the offense in a state or federal court, and if the defendant has been arrested without a warrant, a probable cause determination has been made;

(B) the test for the etiologic agent for acquired immune deficiency syndrome is requested by the victim after appropriate counseling; and

(C) the test would provide information necessary for the health of the victim of the alleged offense and the court determines that the alleged conduct of the defendant created a risk of transmission, as determined by the Centers for Disease Control, of the etiologic agent for acquired immune deficiency syndrome to the victim.

(3) Follow-up testing—The court may order follow-up tests and counseling under paragraphs (b)(1) if the initial test was negative. Such follow-up tests and counseling shall be performed at the request of the victim on dates that occur six months and twelve months following the initial test.

(4) Termination of Testing Requirements—An order for follow-up testing under paragraph (3) shall be terminated if the person obtains an acquittal on, or dismissal of, all charges of the type referred to in subsection (a).

(c) Confidentiality of Test—The results of any test ordered under this section shall be disclosed only to the victim or, where the court deems appropriate, to the parent or legal guardian of the victim, and to the person tested. The victim may disclose the test results to any personal physician or sexual partner(s) she may have had since the attack.

(d) Disclosure of Test Results—The court shall issue an order to prohibit the disclosure of the results of any test performed under this section to anyone other than those mentioned in subsection (c). The contents of the court proceedings and test results pursuant to this section shall be sealed. The results of such test performed on the defendant under this section shall not be used as evidence in any criminal trial.

(e) Contempt for Disclosure—Any person who discloses the results of a test in violation of this section may be held in contempt of court.

(f) Penalties for Intentional Transmission of HIV—Not later than 6 months after the date of enactment of this section, the United States Sentencing Commission shall conduct a study and prepare and submit to the appropriate Committees of Congress a report concerning recommendations for the revision of sentencing guidelines that relate to offenses in which an HIV infected individual engages in sexual activity if the individual knows that he or she is infected with HIV and intends, through such sexual activity, to expose another to HIV.

(5) There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 604. EXTENSION AND STRENGTHENING OF RESTITUTION.

Section 3663(b) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting "including an offense under chapter 109A or chapter 110" after "an offense resulting in bodily injury to a victim";

(2) by striking "and" at the end of paragraph (3);

(3) by redesignating paragraph (4) as paragraph (5); and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in any case, reimburse the victim for lost income and 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".

SEC. 605. ENFORCEMENT OF RESTITUTION ORDERS THROUGH 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) In this subsection—

"(A) 'Federal benefits'—

"(i) means any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or 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.

"(B) '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. 606. INADMISSIBILITY OF EVIDENCE TO SHOW PROVOCATION OR INVITATION BY VICTIM IN SEX OFFENSE CASES.

(a) RULE.—The Federal Rules of Evidence, as amended by section 154, are amended by adding after rule 413 the following new rule:

"Rule 414. Inadmissibility of Evidence to Show Invitation or Provocation by Victim in Sexual Abuse Cases

"In a criminal case in which a person is accused of an offense involving conduct proscribed by chapter 109A of title 18, United States Code, evidence is not admissible to show that the alleged victim invited or provoked the commission of the offense. This rule does not limit the admission of evidence of consent by the alleged victim if the issue of consent is relevant to liability and the evidence is otherwise admissible under these rules.".

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence, as amended by section 4, is amended by inserting after the item relating to rule 413 the following new item:

"414. Inadmissibility of evidence to show invitation or provocation by victim in sexual abuse cases.".

SEC. 607. NATIONAL BASELINE STUDY ON CAMPUS SEXUAL ASSAULT.

(a) STUDY.—The Attorney General shall provide for a national baseline study to examine the scope of the problem of campus sexual assaults and the effectiveness of institutional and legal policies in addressing such crimes and protecting victims. The Attorney General may utilize the Bureau of Justice Statistics, the National Institute of Justice, and the Office for Victims of Crime in carrying out this section.

(b) REPORT.—Based on the study required by subsection (a), the Attorney General shall prepare a report including an analysis of—

(1) the number of reported allegations and estimated number of unreported allegations of campus sexual assaults, and to whom the allegations are reported (including authorities of the educational institution, sexual assault victim service entities, and local criminal authorities);

(2) the number of campus sexual assault allegations reported to authorities of educational institutions which are reported to criminal authorities;

(3) the number of campus sexual assault allegations that result in criminal prosecution in comparison with the number of non-campus sexual assault allegations that result in criminal prosecution;

(4) Federal and State laws or regulations pertaining specifically to campus sexual assaults;

(5) the adequacy of policies and practices of educational institutions in addressing campus sexual assaults and protecting victims, including consideration of—

(A) the security measures in effect at educational institutions, such as utilization of campus police and security guards, control over access to grounds and buildings, supervision of student activities and student living arrangements, control over the consumption of alcohol by students, lighting, and the availability of escort services;

(B) the articulation and communication to students of the institution's policies concerning sexual assaults;

(C) policies and practices that may prevent or discourage the reporting of campus sexual assaults to local criminal authorities, or

that may otherwise obstruct justice or interfere with the prosecution of perpetrators of campus sexual assaults;

(D) the nature and availability of victim services for victims of campus sexual assaults;

(E) the ability of educational institutions' disciplinary processes to address allegations of sexual assault adequately and fairly;

(F) measures that are taken to ensure that victims are free of unwanted contact with alleged assailants, and disciplinary sanctions that are imposed when a sexual assault is determined to have occurred; and

(G) the grounds on which educational institutions are subject to lawsuits based on campus sexual assaults, the resolution of these cases, and measures that can be taken to avoid the likelihood of lawsuits and civil liability;

(6) an assessment of the policies and practices of educational institutions that are of greatest effectiveness in addressing campus sexual assaults and protecting victims, including policies and practices relating to the particular issues described in paragraph (5); and

(7) any recommendations the Attorney General may have for reforms to address campus sexual assaults and protect victims more effectively, and any other matters that the Attorney General deems relevant to the subject of the study and report required by this section.

(c) SUBMISSION OF REPORT.—The report required by subsection (b) shall be submitted to the Congress no later than September 1, 1995.

(d) DEFINITION.—For purposes of this section, "campus sexual assaults" includes sexual assaults occurring at institutions of postsecondary education and sexual assaults committed against or by students or employees of such institutions.

(e) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated $200,000 to carry out the study required by this section.

SEC. 608. REPORT ON BATTERED WOMEN'S SYNDROME.

(a) REPORT.—The Attorney General shall prepare and transmit to the Congress a report on the status of battered women's syndrome as a medical and psychological condition and on its effect in criminal trials. The Attorney General may utilize the National Institute of Justice to obtain information required for the preparation of the report.

(b) COMPONENTS OF REPORT.—The report described in subsection (a) shall include—

(1) a review of medical and psychological views concerning the existence, nature, and effects of battered women's syndrome as a psychological condition;

(2) a compilation of judicial decisions that have admitted or excluded evidence of battered women's syndrome as evidence of guilt or as a defense in criminal trials; and

(3) information on the views of judges, prosecutors, and defense attorneys concerning the effects that evidence of battered women's syndrome may have in criminal trials.

SEC. 609. REPORT ON CONFIDENTIALITY OF ADDRESSES FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) REPORT.—The Attorney General shall conduct a study of the means by which abusive spouses may obtain information concerning the addresses or locations of estranged or former spouses, notwithstanding the desire of the victims to have such information withheld to avoid further exposure to abuse. Based on the study, the Attorney General shall transmit a report to Congress including—

(1) the findings of the study concerning the means by which information concerning the addresses or locations of abused spouses may be obtained by abusers; and

(2) analysis of the feasibility of creating effective means of protecting the confidentiality of information concerning the addresses and locations of abused spouses to protect such persons from exposure to further abuse while preserving access to such information for legitimate purposes.

(b) USE OF COMPONENTS.—The Attorney General may use the National Institute of Justice and the Office for Victims of Crime in carrying out this section.

SEC. 610. REPORT ON RECORDKEEPING RELATING TO DOMESTIC VIOLENCE.

Not later than 1 year after the date of enactment of this Act, the Attorney General shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine—

(1) the efforts that have been made by the Department of Justice, including the Federal Bureau of Investigation, to collect statistics on domestic violence; and

(2) the feasibility of requiring that the relationship between an offender and victim be reported in Federal records of crimes of aggravated assault, rape, and other violent crimes.

SEC. 611. REPORT ON FAIR TREATMENT IN LEGAL PROCEEDINGS.

Not later than 180 days after the date of enactment of this Act, the Judicial Conference of the United States shall review and make recommendations, and report to Congress, regarding the advisability of creating Federal rules of professional conduct for lawyers in Federal cases involving sexual misconduct that—

(1) protect litigants from a course of conduct intended solely for the purpose of distressing, harassing, embarrassing, burdening, or inconveniencing litigants;

(2) counsel against reliance on generalizations or stereotypes that demean, disgrace, or humiliate on the basis of gender;

(3) protect litigants from a course of conduct intended solely to increase the expense of litigation; and

(4) prohibit counsel from offering evidence that the lawyer knows to be false or from discrediting evidence the lawyer knows to be true.

SEC. 612. REPORT ON FEDERAL RULE OF EVIDENCE 404.

(a) STUDY.—Not later than 180 days after the date of enactment of this Act, the Judicial Conference shall complete a study of, and shall submit to Congress recommendations for amending, rule 404 of the Federal Rules of Evidence as it affects the admission of evidence of a defendant's prior sex crimes in cases brought pursuant to chapter 109A or other cases involving sexual misconduct.

(b) SPECIFIC ISSUES.—The study described in subsection (a) shall include—

(1) a survey of existing law on the introduction of prior similar sex crimes under State and Federal evidentiary rules;

(2) a recommendation concerning whether rule 404 should be amended to introduce evidence of prior sex crimes and, if so—

(A) whether such acts could be used to prove the defendant's propensity to act therewith; and

(B) whether evidence of prior similar sex crimes should be admitted for purposes other than to show character;

(3) a recommendation concerning whether evidence of similar acts, if admitted, should meet a threshold of similarity to the crime charged;

(4) a recommendation concerning whether evidence of similar acts, if admitted, should be limited to a certain time period, (such as 10 years); and

(5) the effect, if any, of the adoption of any proposed changes on the admissibility of evidence under rule 412 of the Federal Rules of Evidence.

SEC. 613. SUPPLEMENTARY GRANTS FOR STATES ADOPTING EFFECTIVE LAWS RELATING TO SEXUAL VIOLENCE.

(a) IN GENERAL.—The Attorney General may, in each fiscal year, award an aggregate amount of up to $1,000,000 to a State that meets the eligibility requirements of subsection (b).

(b) ELIGIBILITY.—The authority to award additional funding under this section is conditional on certification by the Attorney General that the State has laws or policies relating to sexual violence that exceed or are reasonably comparable to the provisions of Federal law (including changes in Federal law made by this Act) in the following areas:

(1) Provision of training and policy development programs for law enforcement officers, prosecutors, and judges concerning the investigation and prosecution of sexual offenses.

(2) Authorization of law enforcement and prosecutorial units and teams that target sexual violence.

(3) Funding of victim services programs for victims of sexual violence.

(4) Authorization of educational and informational programs relating to sexual violence.

(5) Authorization of pretrial detention of defendants in sexual assault cases where provision of flight or the safety of others cannot be reasonably assured by other means.

(6) Authorization of serious penalties for nonconsensual sexual assault offenses.

(7) Payment of the cost of medical examinations and testing by the victim for sexually transmitted diseases.

(8) Provision of rape shield protection to ensure that victims of sexual assault are protected from inquiry into unrelated sexual behavior in sexual assault cases.

(9) Provision of rules of professional conduct intended to protect against a course of conduct intended solely for the purpose of distressing, harassing, embarrassing, burdening, or inconveniencing litigants in sexual assault cases.

(10) Authorization of the presence of the victim in the courtroom at the time of trial and provides for the victim's addressing the court concerning the sentence to be imposed.

(11) Authorization of awards of restitution to victims of sexual assaults as part of a criminal sentence.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this section.

On page 292, lines 6 and 7, strike "the prisoner" and insert "a prisoner convicted of a nonviolent offense".

On page 26, line 16, strike "$620,000,000" and insert "$1,035,000,000", and on line 17, strike "$1,040,000,000" and insert "$1,720,000,000". and

On page 27, line 1, strike "$1,160,000,000" and insert "$2,070,000,000" and on line 2, strike "$1,225,000,000" and insert "$2,270,000,000" and on line 3, strike "$1,200,000,000" and insert "$1,900,000,000".

At the appropriate place in the bill, insert the following:

VIOLENT CRIME REDUCTION TRUST FUND

SEC. 1321A. PURPOSES.

The Congress declares it essential—

(1) to fully fund the control and prevention of violent crime authorized in this Act over the next 5 years.

(2) to ensure orderly limitation and reduction of Federal Government employment, as recommended by the Report of the National Performance Review, conducted by the Vice President; and

(3) to apply sufficient amounts of the savings achieved by limiting Government employment to the purpose of ensuring full funding of this Act over the next 5 years.

SEC. 1321B. REDUCTION OF FEDERAL FULL-TIME EQUIVALENT POSITIONS.

(a) DEFINITION.—For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code, but does not include the General Accounting Office.

(b) LIMITATIONS ON FULL-TIME EQUIVALENT POSITIONS.—The President, through the Office of Management and Budget (in consultation with the Office of Personnel Management), shall ensure that the total number of full-time equivalent positions in all agencies shall not exceed—

(1) 2,095,182 during fiscal year 1994;

(2) 2,044,100 during fiscal year 1995;

(3) 2,003,846 during fiscal year 1996;

(4) 1,963,593 during fiscal year 1997; and

(5) 1,923,339 during fiscal year 1998.

(c) MONITORING AND NOTIFICATION.—The Office of Management and Budget, after consultation with the Office of Personnel Management, shall—

(1) continuously monitor all agencies and make a determination on the first date of each quarter of each applicable fiscal year of whether the requirements under subsection (b) are met; and

(2) notify the President and the Congress on the first date of each quarter of each applicable fiscal year of any determination that any requirement of subsection (b) is not met.

(d) COMPLIANCE.—If at any time during a fiscal year, the Office of Management and Budget notifies the President and the Congress that any requirement under subsection (b) is not met, no agency may hire any employee for any position in such agency until the Office of Management and Budget notifies the President and the Congress that the total number of full-time equivalent positions for all agencies equals or is less than the applicable number required under subsection (b).

(e) WAIVER.—Any provision of this section may be waived upon—

(1) a determination by the President of the existence of war or a national security requirement; or

(2) the enactment of a joint resolution upon an affirmative vote of three-fifths of the Members of each House of the Congress duly chosen and sworn.

SEC. 1321C. CREATION OF VIOLENT CRIME REDUCTION TRUST FUND.

(a) ESTABLISHMENT OF THE ACCOUNT.—Chapter 11 of title 31, United States Code, is amended by inserting at the end thereof the following new section:

"§ 1115. Violent crime reduction trust fund.

"(a) There is established a separate account in the Treasury, known as the "Violent Crime Reduction Trust Fund", into which shall be deposited deficit reduction achieved by section 1321B of the Violent Crime Control and Law Enforcement Act of 1993 sufficient to fund that Act (as defined in subsection (b) of this section).

"(b) On the first day of the following fiscal years (or as soon thereafter as possible for fiscal year 1994), the following amounts shall be transferred from the general fund to the Violent Crime Reduction Trust Fund—

"(1) for fiscal year 1994, $720,000,000;

"(2) for fiscal year 1995, $2,423,000,000;

"(3) for fiscal year 1996, $4,267,000,000;

"(4) for fiscal year 1997, $6,313,000,000; and

"(5) for fiscal year 1998, $8,545,000,000.

"(c) Notwithstanding any other provision of law—

"(1) the amounts in the Violent Crime Reduction Trust Fund may be appropriated exclusively for the purposes authorized in the Violent Crime Control and Law Enforcement Act of 1993;

"(2) the amounts in the Violent Crime Reduction Trust Fund and appropriations under paragraph (1) of this section shall be excluded from, and shall not be taken into account for purposes of, any budget enforcement procedures under the Congressional Budget Act of 1974 or the Balanced Budget and Emergency Deficit Control Act of 1985; and

"(3) for purposes of this subsection, "appropriations under paragraph (1)" mean amounts of budget authority not to exceed the balances of the Violent Crime Reduction Trust Fund and amounts of outlays that flow from budget authority actually appropriated.".

(b) LISTING OF THE VIOLENT CRIME REDUCTION TRUST FUND AMONG GOVERNMENT TRUST FUNDS.—Section 1321(a) of title 31, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(91) Violent Crime Reduction Trust Fund.".

(c) REQUIREMENT FOR THE PRESIDENT TO REPORT ANNUALLY ON THE STATUS OF THE ACCOUNT.—Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof:

"(29) information about the Violent Crime Reduction Trust Fund, including a separate statement of amounts in that Trust Fund."

"(30) An analysis displaying by agency proposed reductions in full-time equivalent positions compared to the current year's level in order to comply with section 1321B of the Violent Crime Control and Law Enforcement Act of 1993.

SEC. 1321D. CONFORMING REDUCTION IN DISCRETIONARY SPENDING LIMITS.

The Director of the Office of Management and Budget shall, upon enactment of this Act, reduce the discretionary spending limits set forth in section 601(a)(2) of the Congressional Budget Act of 1974 for fiscal years 1994 through 1998 as follows:

(1) for fiscal year 1994, for the discretionary category: $720,000,000 in new budget authority and $314,000,000 in outlays;

(2) for fiscal year 1995, for the discretionary category: $2,423,000,000 in new budget authority and $2,330,000,000 in outlays;

(3) for fiscal year 1996, for the discretionary category: $4,287,000,000 in new budget authority and $4,184,000,000 in outlays;

(4) for fiscal year 1997, for the discretionary category: $6,313,000,000 in new budget authority and $6,221,000,000 in outlays;

(5) for fiscal year 1998, for the discretionary category: $8,545,000,000 in new budget authority and $8,443,000,000 in outlays.

Mr. MITCHELL. Mr. President, I thank my colleagues, and I now yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, again, as I did earlier, I commend the Senator from West Virginia.

I understand compromises are essential in this process. But, again, to spend $3 billion more on prisons after the disastrous experiences we have had just does not make sense.

If we are really interested in going after crime—for example, we have over one-fifth of the children of this country living in poverty. No other Western industrialized country has that kind of a record. We ought to be tackling the problems of poverty, and then we would really be tackling the problems of crime.

We ought to have a jobs bill.

I heard the Senator from Maine saying that our values need to be looked at. There is no question about that. I heard Senator BYRD speaking eloquently on that.

But one of the things we have done through our welfare system is to discourage families from living together. We have to examine our policy and not simply say we have to improve our values system. And I agree with that.

But I shall cast a vote against the amendment, even though very much of the amendment I think is excellent—having police on the street, having the violence against women bill. But to spend $3 billion more on prisons when we already have more people in prisons than any other country on the face of the Earth just does not make sense.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Thank you, Mr. President.

Mr. President, on several occasions, I have taken the floor to discuss the drawdown in America's military forces.

In addition to the very substantial question, of how best to employ the tremendous skills of personnel leaving the services our country is searching for ways to put the physical facilities, of our defense infrastructure to new uses.

Senator DORGAN of North Dakota put forth a proposal, which addressed that long-term national concern, while promising to make America a safer place to live.

I had agreed to be an original cosponsor of his amendment.

However, the distinguished President pro tempore recognized the merit of our proposal, and has included it in the omnibus amendment which we are now considering.

I congratulate them both for their good work.

The crime bill before us and, indeed, the entire criminal justice system operates on the theory that the promise of punishment will deter crime, and when the deterrent fails, punishment must be swift and appropriate.

Too often, though, that system is undermined.

Punishment is not effective if it cannot be carried out.

And, as the chairman of the Judiciary Committee, Senator BIDEN, has explained, the critical block to swift punishment, is the overcrowding of our State and local prisons.

Make no mistake, there is enough space now in maximum-security prisons to hold all of the truly dangerous offenders. But first-time and nonviolent offenders are being shoved into the same facilities creating the overcrowding.

So the people who should be doing hard time, wind up serving reduced sentences, or in some cases, no sentence at all.

And those who do go to prison, are able to tutor young, first-time offenders, in the ways of violent crime.

With no punishment, or uncertain punishment, for committing crimes, there is virtually no deterrent. Is it any wonder, that first-time offenses and recidivism, both continue to climb?

To make room for the truly dangerous criminal, we need to revise the way the criminal justice system deals with nonviolent offenders and first-time offenders.

Alternatives to full-security incarceration, such as military-style boot camps and regional drug-treatment prisons, provide excellent means to alleviate some of the burdens associated with the cost and overcrowding problems in prisons. This amendment, turns these ideas into concrete steps.

The converted bases which would be opened only with the concurrence of local authorities, would be shared between the Federal Government and the States.

States would pay to operate the facilities and house the prisoners. In exchange for the use of the facility, some space in each would be reserved for Federal offenders whose crimes are of similar severity.

If the Senate is to incorporate creative alternatives into the criminal justice system, then we must find more prison space—but it does not have to be maximum security. Those alternatives require such space, separate from the existing full-security prisons in order to work.

The amendment before us would help provide the lower-security prison space required.

In this time of military downsizing, we need to explore the range of new use possibilities for closed military bases.

This amendment, in one of its provisions, proposes to refit closed military bases into boot camps and minimum-to-medium security prisons for first time offenders and nonviolent criminals; 23 Federal prisons currently operate on deactivated bases, or former military property. From that experience, we know that refitting deactivated military bases costs significantly less than starting from scratch.

This idea is resourceful, and forward-looking; this idea provides relief for overcrowded prisons. This idea helps to make alternatives for first-time offenders and nonviolent offenders viable. This idea offers a way of lowering the costs of building new prisons. This idea helps to keep violent criminals where they belong—in jail.

Therefore, I am pleased to join Senators BYRD and DORGAN, in sponsoring this amendment, and solicit the support of my colleagues for this next step in the fight against crime.

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

Mr. MITCHELL. Mr. President, there being no other Senator seeking recognition, and in order to give notice to Senators who are not in the Capitol—we set the vote for 11 p.m.—I now suggest the absence of a quorum.

Mr. BIDEN. Will the Senator withhold that request?

Mr. MITCHELL. I will withhold.

Mr. BIDEN. I would like to take just 2 minutes to explain what the Senator from Kansas, the Republican leader, and I agreed on as the changes that were contained in this unanimous consent agreement relative to the violence against women portion of this agreement.

There are basically two changes we agreed upon. We had in the bill an Attorney General's task force to study the issue of violence against women. The Republican leader pointed out that that was not particularly balanced and fair. So we changed it to a national commission to study violence against women, with appointees by the President and the minority and majority leaders in the House and the Senate, in both bodies. That is the first change.

The second change that we have agreed to in the Violence Against Women Act—and, I might add, this is something the Republican leader has worked on for more than a year on this issue —and that is we had payment for HIV tests requested by the victim of a rape, which is contained in this bill. We added to this provision the ability to test the accused after, and only after, a probable cause hearing before a judge and the judge, determining that there is a substantial reason for concern to exist, thereby ordering the test. And, so, there are the two changes that we made.

There are other pieces that are of no consequence, that do not change the bill at all, that were some minor language changes, one to clean up the definition of what constitutes a crime of violence motivated by gender. It really was semantic, rather than any substantive difference.

They are the changes that we are referring to when we say in the unanimous consent agreement that the Republican leader and I had agreed to changes in the portions relating to the violence against women section.

Mr. DOLE. Can I just add one additional thing to that? I think it also directs the sentencing commission to prepare recommendation for revising the sentencing guidelines that relate to offenses committed by offenders who intend to expose others to the HIV virus.

Mr. BIDEN. The Senator is correct. I apologize for leaving that out.

Mr. DOLE. I suggest there is another provision we could not agree on which we will offer to some other section—in fact, two others. We will offer it to another place in the bill.

I thank the chairman and members of his staff and others who have helped us resolve a couple of these areas. I think it makes it a better bill, more consistent with the bill many of us have been working on for a couple of years.

The PRESIDING OFFICER (Mr. DODD). The Senator from Utah.

Mr. HATCH. Mr. President, I thank the distinguished minority leader for his work on this because he has worked on violence against women for well over a year. He is one of the key players on this. I think it makes a tremendous difference, and this compromise has enabled this whole matter to go forward and I want to personally thank him and those who worked on it.

Mr. BYRD. Mr. President, I ask unanimous consent Mr. HOLLINGS be added as cosponsor to the amendment.

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

Mr. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LAUTENBERG. Mr. President, I rise as a cosponsor of the Byrd amendment, to urge my colleagues to support this vitally important initiative to combat the plague of crime in our Nation.

Mr. President, it is long past time to make the battle against crime a top national priority. Violent crime has increased substantially in recent years, and has reached crisis proportions. No part of our Nation is safe from this epidemic. From suburbs to inner cities, and even to our Nation's rural area, the threat of crime pervades America today. Congress has simply got to respond.

There is much to be done to address the crime problem. But one essential element of a war against crime is that we have to get tougher with criminals. We need tougher sentences. And we cannot tolerate a criminal justice system that lets even dangerous violent individuals out of prison long before their sentence is completed. Those who commit violent acts should know that they are going to go to prison for a long, long time—and that they are not going to get any special breaks to get out early.

This amendment will encourage States to adopt tough sentencing practices, to put a stop to the overly permissive policies in too many areas. For example, to qualify for certain Federal funds, States will have to impose sentences for serious firearm offenders that are at least as long as those imposed under Federal law. States also will be encouraged to ensure that defendants serve at least 85 percent of the sentence ordered.

Beyond getting tougher with criminals, Mr. President, we also need more police officers. As a member of the Commerce, Justice, State and Judiciary Appropriations Subcommittee, I have long been a strong proponent of community-based policing, to get officers out of their cars, and into their neighborhoods. It's made a big difference in many jurisdictions, and we need to encourage this approach.

This amendment would provide funds to hire an additional 100,000 police officers, who could pursue community-based approaches. This fulfills President Clinton's promise during last year's campaign. It's critically important, and I am very pleased we were able to identify the funds for this priority.

I would note, Mr. President, that the amendment also would fund boot camps for juvenile offenders, and additional prisons, to ensure that there is enough space to lock up violent offenders. Also included is the Violence Against Women Act, which I strongly support.

In sum, Mr. President, this is an important amendment that represents a significant step forward in the battle against crime. I am proud to be a cosponsor, and I urge my colleagues to support it.

Mr. DORGAN. Mr. President, I rise in support of the amendment of the distinguished President pro tem and chairman of the Appropriations Committee as he has modified it.

This amendment embodies very important provisions that I have been working on for many weeks with the chairman of the Judiciary Committee, Senator BIDEN; Senator GLENN; my good friend and colleague from North Dakota, Senator CONRAD; and Senators LIBERMAN, ROBB, and DASCHLE.

Mr. President, about half of the prisoners in State facilities are there because of a conviction for a nonviolent crime. Approximately 19 percent of State prisoners have never been convicted of a violent crime—yet they are taking up prison space that States could use for those who have committed violent crimes. I believe we can house these nonviolent prisoners in a manner that would cost far less, while still forcing them to serve their full prison sentence.

Last month, I introduced S. 1511, the Violent Crime Prevention Act of 1993. One of the major provisions of that bill authorizes $700 million to build—and convert unused military bases—to low- and minimum-security prisons. These prisons would house nonviolent criminals, and would free up space in existing higher-security prisons for violent criminals. It makes no sense to me that we are housing nonviolent prisoners in higher-security prisons while murderers are being released 10 years early because of prison over-crowding.

These minimum security prisons would also cost far less to build then high-security prisons. Last year Federal and State agencies spent an average of $35,889 per bed to build new prisons. However, the Bureau of Prisons converted an unused Air Force base in Florida into a minimum-security prison for only $265 per bed. Another example is Fort Dix in New Jersey, which is being turned into a low-security prison for one-fifth of the cost of building a new facility. Operating these low-security prisons will also be far less expensive because, for each prisoner, they cost $3,000 a year less to run than do high-security prisons.

Why should we be spending extra money on prisoners that do not require this level of security? These low-security prisons will save money, provide room for nonviolent criminals, and free up space to put violent prisoners where they belong—behind bars.

Mr. President, I am very pleased that this portion of my bill has become a part of Senator BYRD'S amendment. I thank him, Chairman BIDEN, and the entire Judiciary Committee for reaching this compromise amendment.

Mrs. FEINSTEIN. Mr. President, I rise today to express my strong support for the Violence Against Women Act.

Before I begin, I would like to thank the distinguished Senator from West Virginia for offering the amendment that will fully fund this act and to recognize the hard work of Chairman BIDEN.

We have heard a lot about the "Year of the Woman."

We have heard a lot about change.

We have heard a lot about stopping the violence that is ravaging our country.

But until this discussion began about the Violence Against Women Act, there was little discussion of the silent victims of violence. Until now, we have not heard enough from the women who have been victims of violence.

Not until Chairman BIDEN and the Judiciary Committee came forward with this legislation, not until 60 Senators, including myself, came forward as cosponsors, not until today, have we seen legislation in this Congress that goes out of its way to ask to hear from the silent women who are victims of violence.

The silence today is so complete that 84 percent of all rapes each year are never reported, according to a report by the National Victim Center.

The only way to end this silence is to make a promise.

A promise that if a victimized woman speaks out, she will be heard, and a prosecution will take place.

The Violence Against Women Act will improve the chances of keeping that promise.

Without this act, there is no reason for women to break the silence.

Today, without this act, only one out of 10 rapes reported to the police results in the attacker serving prison time.

Today, without this act, a convicted rapist is 50 percent more likely to receive probation than a convicted robber.

Today, without this act, 98 percent of the victims of rape never see their attacker caught, tried, or imprisoned.

And, I believe, without this act, violent acts against women will continue to rise. Consider these facts:

Since 1988 the number of known rapes in the United States has risen 18 percent, and

In 1992 alone, there were 109,062 rapes in the United States.

And rape is not the whole story.

More than 1.1 million women are victims of reported domestic violence every year—by some estimates, as many as 3 million more domestic violence crimes go unreported each year.

Women have between a 1-in-3 and a 1-in-5 chance of being physically assaulted by a partner or ex-partner during their lifetime, according to the Journal of the American Medical Association.

The Violence Against Women Act will:

Add $300 million for additional police, prosecutors, and victims advocates;

Provide additional training for judges;

Expand rape shield laws;

Add offenses for interstate spousal abuse;

Increase funds for shelters and rape crisis centers;

Guarantee that restitution will cover the victim's lost income, necessary child care, and other expenses related to prosecution of the offense; and

Most importantly, the Violence Against Women Act will work to break the silence.

By approving the Violence Against Women Act, this Senate will send a loud and clear signal to women throughout the country.

It will truly be the Year of the Woman when violence against women is never ignored.

It will truly be our year when violent acts against women never go unchallenged.

This legislation is the first step toward meeting the challenge of the Year of the Woman.

Violence is about power. This bill is about shifting power.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, the vote that is about to occur will be the last rollcall vote this evening. There will be a rollcall vote at 9 in the morning, 9 tomorrow morning. We will have a long day tomorrow, but we are making good progress on this bill.

I thank the managers for their cooperation.

The PRESIDING OFFICER. The hour of 11 p.m. having arrived, the question is on agreeing to the amendment offered by the Senator from West Virginia [Mr. BYRD], amendment No. 1103, as modified.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] and the Senator from North Carolina [Mr. HELMS] are necessarily absent.

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

The result was announced—yeas 94, nays 4, as follows:

[Rollcall Vote No. 352 Leg.]

YEAS—94

Akaka	Faircloth	McConnell
Baucus	Feingold	Metzenbaum
Bennett	Feinstein	Mikulski
Biden	Ford	Mitchell
Bingaman	Glenn	Moseley-Braun
Bond	Gorton	Moynihan
Boren	Graham	Murkowski
Boxer	Gramm	Murray
Bradley	Grassley	Nickles
Breaux	Gregg	Nunn
Brown	Harkin	Packwood
Bryan	Hatch	Pressler
Bumpers	Heflin	Pryor
Burns	Hollings	Reid
Byrd	Hutchison	Riegle
Campbell	Inouye	Robb
Chafee	Jeffords	Rockefeller
Coats	Johnston	Roth
Cochran	Kassebaum	Sarbanes
Cohen	Kempthorne	Sasser
Conrad	Kennedy	Shelby
Coverdell	Kerrey	Simpson
Craig	Kerry	Smith
D'Amato	Kohl	Specter
Danforth	Lautenberg	Stevens
Daschle	Leahy	Thurmond
DeConcini	Levin	Wallop
Dodd	Lieberman	Warner
Dole	Lott	Wellstone
Domenici	Lugar	Wofford
Dorgan	Mack	
Exon	McCain	

NAYS—4

Hatfield	Pell
Mathews	Simon

NOT VOTING—2

Durenberger	Helms

The amendment (No. 1103), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, there is a very important amendment that the minority and majority have agreed to, but I think it is important that it be offered tonight.

The distinguished Senator from California has an amendment. I would ask if she is prepared to present that amendment. There will be no vote required because the managers of the bill have accepted it. But it is an important addition to the bill, quite frankly, which we did not have. We welcome it. So I yield to the Senator from California, if that is appropriate.

Mrs. BOXER. I say to my friend that I do have——

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. I thank the Chair.

I say to my friend that I do have the amendment ready. It was my understanding that Senator DOLE was going to have his amendment disposed of, which I have modified.

Mr. DOLE. It has been modified. I think we need to dispose of it.

The PRESIDING OFFICER. The Chair would notify the Senator from California the amendment of the Senator from Kansas, as modified, is at the desk.

Mr. DOLE. I think we are supposed to act on it. We vitiated the yeas and nays.

The PRESIDING OFFICER. Is there further debate on the amendment offered by the Senator from Kansas? If not, the question is on agreeing to the amendment.

The amendment (No. 1102), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DOLE. I thank the Senator from California [Mrs. BOXER] for her modification which I think strengthens the amendment. I thank her.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I thank the Chair.

I thank the Republican leader for his good amendment, and I think, with the way it has been modified, it is going to really toughen the penalties for those who would set these fires and cause all the havoc and the heartache that we have been seeing out in California.

AMENDMENT NO. 1104

(Purpose: To call on the President to convene a national summit on violence in America)

Mrs. BOXER. Mr. President, I have an amendment I would like to send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER The clerk will report the amendment.

The bill clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 1104:

Subtitle D—Presidential Summit on Violence

SEC. 1731. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) violence in America has reached epidemic proportions;

(2) this epidemic reaches into communities large and small, affects the richest and the poorest among us, touches people of every ethnic and economic background, and affects all institutions, both public and private;

(3) actual violence and depictions of violence are so pervasive that they have an enormous impact on the lives and character of our children;

(4) every person, group, and institution in America has a role to play in ending the epidemic of violence; and

(5) we need a national conference in order to develop a shared understanding of the causes of violence in America and to build a national consensus on the solutions to this epidemic.

SEC. 1732. PRESIDENTIAL SUMMIT ON VIOLENCE.

Congress calls on the President to convene as soon as possible a national summit on violence in America. The President is urged to include participants from all regions of the country and all walks of life, both public and private.

Mrs. BOXER. Mr. President, I allowed the entire amendment to be read because I need not make a long speech about it. What we have laid out is the condition that we face in our Nation with this increasing violence, the fact that we all know, Republicans and Democrats, we must do something about it and that it is time to call attention to this problem in a very special way, the kind of way President Clinton called attention to this economy when he held an economic summit. This amendment simply is a sense of the Senate that the President call together the experts in the field of violence, real people who are affected by violence, people from every walk of life, and let us as a nation focus on this problem, find out what is working and really come together with a strategy so that our Nation can once again be a peaceful place.

I thank very much my friend and colleague from Delaware, the chairman of the Judiciary Committee, Senator BIDEN, and the ranking member, Senator HATCH, for their support of this idea, as well as to the administration which seems, frankly, very excited about this notion of having such a summit.

Again, I have not a long speech to make at this late hour, only to thank my colleagues both on the Republican side and Democrat side for their support of this amendment.

I yield the floor.

Mr. BIDEN. Mr. President, once again I compliment the Senator from California. I had taken the liberty to speak to the White House about this as well, and she is correct in that they are excited and plan on taking this suggestion of hers very seriously. It is something that I think Republicans and Democrats alike can support with some enthusiasm and hopefully out of this serious look at violence in America we may be able to gather additional consensus beyond what we have done here tonight.

So I thank her. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1104) was agreed to.

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

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1105

(Purpose: To improve the rules of evidence)

Mr. DOLE. Mr. President, when we had our negotiations tonight we were able to agree on a couple of things and disagree on a couple things but we did agree it could be offered.

Mr. BIDEN. That is correct.

Mr. DOLE. One I would offer now that I think is self-explanatory and I will try to do it very quickly. Then I will send the amendment to the desk. It provides for admissibility of evidence of similar crimes in sex offense cases. First, evidence of similar crimes in sexual assault cases. Second, evidence of similar crimes in child molestation cases. And, finally, evidence of similar acts in civil cases concerning sexual assault or child molestation. It does change the rules.

Mr. President, the amendment I am offering tonight was originally part of the Sexual Assault Prevention Act of 1993, which I introduced on the first day of the session with several of my Republican colleagues.

In a nutshell, this amendment would create three new Federal rules of evidence that would provide helpful tools to prosecutors throughout the country in their efforts to prosecute and convict vicious sex crime offenders.

Mr. President, too often, crucial evidentiary information is thrown out at trial because of technical evidentiary rulings. This amendment is designed to clarify the law and make clear what evidence is admissible, and what evidence is not admissible, in sex crime cases.

The amendment would create a new rule 413 of the Federal Rules of Evidence. This new rule would provide that in a criminal case in which the defendant is accused of assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.

The amendment would also create a new rule 414, similar to rule 413, that would apply to child molestation cases. This new rule would make clear that in a criminal case in which the defendant is accused of an offense of child molestation, evidence of the defendant's commission of another offense or offenses of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant.

And finally, Mr. President, this amendment would create a new rule 415, making it clear that in civil cases, evidence of a defendant's commission of past offenses of sexual assault and child molestation is admissible and may be considered for whatever purpose is relevant.

Mr. President, I urge my colleagues to support this amendment—for this amendment would make it easier to prosecute sex offenders and provide justice for the victims of these crimes.

I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 1105.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, add the following:

SEC. 121. ADMISSIBILITY OF EVIDENCE OF SIMILAR CRIMES IN SEX OFFENSE CASES.

The Federal Rules of Evidence are amended by adding after Rule 412 the following new rules:

"Rule 413. Evidence of Similar Crimes in Sexual Assault Cases

"(a) In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and Rule 415, "offense of sexual assault" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code;

"(2) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

"(3) contact, without consent, between the genitals or anus of the defendant and any part of another person's body;

"(4) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(5) an attempt or conspiracy to engage in conduct described in paragraphs (1)-(4).

"Rule 414. Evidence of Similar Crimes in Child Molestation Cases

"(a) In a criminal case in which the defendant is accused of an offense of child molestation, evidence of the defendant's commission of another offense or offenses of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and Rule 415, "child" means a person below the age of fourteen, and "offense of child molestation" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code, that was committed in relation to a child;

"(2) any conduct proscribed by chapter 110 of title 18, United States Code;

"(3) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(4) contact between the genitals or anus of the defendant and any part of the body of a child;

"(5) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain or a child; or

"(6) an attempt or conspiracy to engage in conduct described in paragraphs (1)-(5).

"Rule 415. Evidence of Similar Acts in Civil Cases Concerning Sexual Assault or Child Molestation

"(a) In a civil case in which a claim for damages or other relief is predicated on a party's alleged commission of conduct constituting an offense of sexual assault or child molestation, evidence of that party's commission of another offense or offenses of sexual assault or child molestation is admissible and may be considered as provided in Rule 413 and Rule 414 of these rules.

"(b) A party who intends to offer evidence under this Rule shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such late time as the court may allow for good cause.

"(e) This rule shall not be construed to limit the admission or consideration of evidence under any other rule."

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BIDEN. Mr. President, what the Senator from—what the Republican leader is doing is changing 404(b) of the Federal Rules of Criminal Procedure, and that is no big deal in and of itself except that by allowing evidence of—right now the rule in a courtroom in a Federal court is you go in and if you wish to introduce evidence of a similar crime, along the lines of what the Senator from Kansas is suggesting, you can only do it under very limited circumstances—I will get my glasses here to be precise—as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of a

mistake or accident. These are the only circumstances in which you can offer this as evidence to go to those items that I mentioned—intent, preparation, opportunity, et cetera. There is a reason for that. These rules of relevancy—and that is what they are referred to under the Criminal Code and rules of procedure for criminal cases—it took essentially 800 years to develop the rules of evidence under our English jurisprudence system. The reason it did is all these rules have come about as a consequence of how do you better acquire the truth? How do you better make available to the jury that which is the essence of what happens? What probative value do the things you wish to introduce into evidence have?

Let me just put it another way. If you are a juror and I am a prosecutor and I am able to turn and say to the defendant who is being accused of rape or child molestation that they had been, in the past 2 years, 10 year, 30 years, 2 months, 2 days, two decades ago, convicted of a similar crime, that is obviously very prejudicial. You say, wait a minute. He has done this before. I guess maybe that means he may do it again.

The truth of the matter is that is not how human nature necessarily functions, and it certainly does not go to the essence of what our system is about; that is, proving that this defendant in this case is guilty beyond a reasonable doubt of the specific charges against him or her at that moment before that jury.

So there is little probative value. The fact that the defendant may have done something 10 years ago, had done something 10 years ago, may or may not be relevant to whether or not he is at the scene of the crime of which he is being accused. But once you tell somebody on a jury that, "By the way, Charlie done it before," it is awfully hard to overcome the instinctive prejudicial judgment that will be arrived at by a jury.

So, for example, it is a little bit like if your child ever exaggerated to you once, every time he or she came up to you to tell you something, "Well, you are exaggerating to me again," and you point out, "By the way, years ago when you did this, you exaggerated to me." We would say, no, that is not a fair thing to do to our child.

That is not a fair thing to do to an individual because it does not speak to the elements of the crime. It does not speak to whether he was there at the place at the time and the moment and committed the crime.

But it tends to—we found out from 800 years of experience—to blind people to looking at the real facts before them and making an independent judgment, at this time, at this circumstance, at this situation, that this defendant did that thing.

So, that is why it was developed. That is why the law has developed the way it has.

Currently, the bill has a provision that directs the Judicial Conference—and the Republican leader knows this well—the Judicial Conference is authorized under the rules of Congress to be able to set up—our separation of powers system allows them to make rules relevant to how they conduct courts. Although we could make those rules for them, we authorize them to do it. We in this bill direct the Judicial Conference to complete a study and submit to Congress recommendations for amending rule 404—if it makes any sense, the rule here in question—within 180 days of enactment of this legislation.

This study includes a survey of existing law on the introduction of prior similar sex crimes under State and Federal evidentiary rule, a recommendation as to whether rule 404 should be amended to introduce evidence of prior sex crimes, and, if so, whether such acts could be used to prove the defendant had a propensity to commit such crimes, and whether the evidence should be admitted for purposes other than to show character; also, a recommendation concerning whether evidence of similar acts should meet a certain threshold of similarity to be admitted.

For example, the fact that someone is accused of, let us say, statutory rape and that when they were 17 years old they had been found guilty of exposing themselves in public, well, there is not a lot of relationship necessarily between the two. If you are going to allow that into evidence——

Let me put it another way. What do you think the chances are the jury would keep an open mind if you were before the jury for having embezzled money, and the State was able to put in evidence, "By the way, when so and so was 19 years old, he was convicted of rape." It has nothing to do with whether he embezzled money, zero. But the tendency would be for the jury to say this person must be a bad person. The whole of our system is predicated on the notion that you are innocent of the crime for which you are accused until you are proven to be guilty of that particular crime and the elements of that crime beyond a reasonable doubt.

So I suspect we would not allow in evidence, for example, to suggest in a robbery case—this is not what this amendment would do, but to make the point—that you had been convicted of drunk driving. Why would not we allow drunk driving charges to be brought in a robbery case? Well, because it goes to your character, it makes you look like you are maybe the kind of guy if you broke that law, you may break this law. It is prejudice without any probative value. The ultimate prejudicial nonprobative kind of evidence to be introduced is to introduce evidence of a similar crime.

Well, the point here is in what we have written in the bill, the recommendation has to come from the Judicial Conference concerning whether evidence of similar acts should meet a certain threshold of similarity to be admitted or a recommendation concerning whether evidence of similar acts should be limited to certain periods of time; for example, only acts committed in the last 10, 20 years or some sort of finality to when in fact you can be forgiven for what you were accused of and what you were convicted of years ago.

The effect, if any, of the adoption of any change of rule 404 on rule 413, the rape shield law—the rape shield law is there to prevent the victim from being taken advantage of—what effect would this have on that law?

As the constitutionality and effect of amending rule 404 are unclear, this area bears further study and some clear-cut guidelines before Congress could enact any such legislation. The Violence Against Women Act provides for further study.

Therefore, I encourage my colleagues to oppose this amendment and await the outcome of the Judicial Conference report.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. Mr. President, I will just make a couple of points.

This does not go to prior conviction; prior offenses. We are dealing here with sexual assaults and child molestation. There have been other changes of rules of evidence in the bill. I think if somebody is a repeat offender, if you brought in eight or nine women, for example, or eight or nine children, and he had one offense after another, it would be probative. If it had not happened for 10 years, it probably would not have any value.

We also provide protection for the defendant because we require the Government to disclose the evidence of the defendant, including a statement of witnesses or a summary of the substance of any testimony expected to be offered at least 15 days before the scheduled date of trial, or at such later time as the court may allow for good cause.

So I think again it is a question—the chairman is much more knowledgeable than this Senator in this area. But again, if we are really going to get tough, and if we are really going to try to make certain that justice is provided for the victim as well as the defendant, of course, then I think we ought to look seriously at this.

So I have nothing further to say.

Mr. DOLE. I ask for the yeas and nays on the amendment and that it occur at 9 o'clock.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. BIDEN. Mr. President, I will be very brief.

The PRESIDING OFFICER. There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. That would be a 9 o'clock vote.

Mr. BIDEN. Mr. President, I ask if my colleague would be willing to allow 5 minutes on each side at 9 o'clock to complete debate on this, or 3 minutes on a side.

Mr. DOLE. I know that two of our colleagues have meetings with the President. I am hoping they could slip in.

Mr. BIDEN. Maybe we could come in at 8:50 if we could come in and vote at 9 o'clock.

Mr. DOLE. I know the staff is pleased with that.

Mr. BIDEN. I can see that. They all cheered when we suggested that. I ask unanimous consent that we be able to come in at 8:50 and vote at 9 o'clock.

Mr. DOLE. I do not know who will be here. But you and I will be here.

Mr. BIDEN. Let me say very briefly, the last point my friend from Kansas raised underscores, I would argue, even more definitively why this is a dangerous precedent. Let me read from the legislation. It says:

> In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible.

Translated, that means you do not even have to be convicted. So someone can come in—if the Attorney General can find someone, or the district attorney—who says: You have this defendant here that has been accused or raping Mary, or molesting Billy. I want to tell you that 10 years ago, even though I never told anybody about it, he did the same thing to me. You can get four other people to come in and say, "He did the same thing to me," with no evidence ever having been admitted at that time, 2 years ago, 10 years ago, 20 years ago, and no ability of the defendant to go back and find a witness from 2 years ago, 10 years ago, 20 years ago, no ability to disprove the assertion made that, yes, they did it to me, too, and allow that in evidence in a trial where you are being accused of a similar crime now.

As one of my criminal law professors used to say, this lends a significant opportunity for mischief on the part of the prosecutor, not that any prosecutor would engage in mischief, but it has been known to happen occasionally. Think about what we are about to do here if we pass this. Anybody accused of a sexual offense will be in a position where, after being told by the prosecutor that they are going to traipse in people who will say the same thing or a similar thing happened to them, even though they never mentioned it before, even though it was never raised before, even though they never had a chance to disprove it before, even though they have never been convicted of it.

But think about it, I say to all my colleagues. What do you think the impact is that will have on the mind of a juror, whose solemn charge is to consider only the facts put before him or her as to the innocence or guilt of that defendant—not hearsay evidence, unable to be questioned because the time has passed, witnesses have died, people have gone away, and records are no longer in existence.

It is a very dangerous amendment. I admit that any amendment anyone would bring to the floor that has anything to do with child molestation or sexual offenses is likely to get 51 votes here, no matter what it is. I imagine that if we said in cases of sexual molestation of a child we should require the defendant to undergo electric shock treatment, we would probably get a vote for that here. We would probably get a vote for that here, because everybody is against those heinous crimes.

I conclude by saying, so you need not stay here any longer, Mr. President, these rules of evidence took 800 years to develop. They took that long in a figurative sense, Mr. President, because we have worked out over all this time means by which to separate the wheat from the chaff, the means by which to separate those things which are not at all dispositive or do not in any way shed light on the truth, but in fact only shed light on prejudice and keep those inquiries and rules that do in fact shed light on the truth. This is all about the truth.

Let me just point out that there are a number of—I, along with the Presiding Officer, wrote the, not too many years ago, the child safety legislation, dealing with violence against children. It was a major piece of legislation that passed. But one of the things we found out in all those times and in all that investigation is that occasionally, for example, children say things that are not true. Look at some of the most celebrated cases that have come up, and you read in Time Magazine and Newsweek and other places where innocent individuals have been accused of doing something wrong, where later they find out—the jury and judge finds out they just did not do it, because of the child's inability to make judgments and be accurate and the like. What happens in those kinds of cases where you bring in 2, 3, 4, 5, 7, or 10 other people who have never proven their case in a court of law and they say, "The same thing happened to me."

It does not seem like a very important amendment when you are talking about a $21 billion crime bill that is so significant. But in terms of our civil liberties, in terms of protecting the innocent in order to ensure that we get the guilty, this is a very dangerous amendment. I hope my colleagues tomorrow morning will conclude it makes no sense to support it.

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

Mr. BIDEN. I am delighted to yield.

Mr. COHEN. I know two of my colleagues wish to make a statement on a very important matter. I was going to inquire from the chairman. I heard him say to the chair he was going to "let him go" for the evening. So I will refrain tonight from offering another amendment. But perhaps after listening to the chairman debate this matter with Senator DOLE, I might be privileged to offer the amendment sometime early tomorrow?

Mr. BIDEN. I, quite frankly, have no opposition to you introducing it tonight. In the meantime, if the Senator will withhold, I ask unanimous consent that no second degree amendments be in order to the amendment that is pending.

The PRESIDING OFFICER. Is there objection?

Without objection, it so ordered.

Mr. BIDEN. I say to my friend from Maine—and I mean it sincerely—I am delighted to stay here and begin to discuss his amendment with him. I suggest that maybe we withhold doing that now.

MILITARY STYLE BOOT CAMPS POLICE CORPS PROGRAM

Mr. BOREN. Mr. President, I rise today to discuss two provisions of the Violent Crime Control and Law Enforcement Act of 1993. These provisions represent innovative responses to one of the most frightening problems of modern life: the unacceptably high level of crime.

Few of our past answers have been successful in controlling the escalating violence. Our primary solution has been to incarcerate more people for longer periods of time in conventional prison environments. The population of many prisons is at record levels, and most correctional systems are seriously overcrowded. It is time to try new solutions.

First, the bill authorizes funds to be used in grants for the operation of military-style boot camps for younger nonviolent offenders. This provision is similar to legislation that I introduced earlier this year, The Boot Camp Prison Act of 1993. The goals of a boot camp are rehabilitation, deterrence, building self-esteem, and prison population reduction. To achieve these objectives, the boot camp regime includes four major components: drills, work assignments, education classes, and counseling. Further, the boot camp concept includes the provision of post-release assistance to help youths make the transition from institutional life to life on the outside.

We cannot afford to miss an opportunity to help younger Americans reclaim their futures, to find order and meaning in their lives, and to return to

the civilian world ready to be productive citizens. My State's experience with boot camps indicates the promise of this solution. In 1984, Oklahoma opened what is now one of the Nation's oldest correctional boot camps for young, nonviolent, first-time offenders. Oklahoma's example has been followed by 24 other States. There are now at least 34 boot camps in the Nation, incarcerating over 400 people. In light of the success of boot camps on the State level, it is high time that we provided more Federal funding for these worthy projects.

I am also gratified at the inclusion of a second provision, the section establishing a national Police Corps program that would provide $200 million for Police Corps enrollees and $150 million for scholarships for police officers serving the Nation now. Modeled on the ROTC, the Police Corps program, which I have long supported, would provide education assistance in exchange for a commitment to post-graduation police service.

The Police Corps program offers a way to enlist the best and brightest Americans to combat violence in our country. They will gain not only the benefits of a good education, but they will also receive intensive Federal law enforcement training. Again, this provision offers an innovative solution to one of our most pressing crime problems: the need for more police in our communities. Since 1971, while violent crime has increased almost 300 percent, and spending on prisons has increased 154 percent, total spending on State and local police has increased only 12 percent.

Both of these provisions are practical and realistic responses to the problem of crime that threatens to overwhelm our cities and States. I am pleased that the comprehensive crime control package recognizes their promise and includes them as important components to an integrated approach.

AMENDMENT NO. 1099

Mr. GRASSLEY. Mr. President, I rise in support of the amendment of the Senator from Utah. I complement him and the Republican leader for including this amendment as part of the crime bill that I was pleased to cosponsor.

We can hire more police. That is important. And we can punish crimes with longer sentences and truth in sentencing. Those are also important. However, we will never make true progress in fighting crime without building prisons to hold the people that our police arrest and that will be necessary if sentencing is stiffened.

The bill before us fails to create sufficient prison space. Although unfortunate, this should surprise no one. As early as last spring, when the administration's proposed budget numbers were released, we first learned that cutting back on prison construction was an important administration goal. The amount of money proposed to be spent on new prison construction was slashed. That same philosophy has carried through to the administration's crime bill.

Drug treatment and boot camps should not be the first approach to incarceration. The amendment before us takes a much more effective approach. It provides $2 billion for the construction of new regional prisons and another $1 billion for grants to States to operate and maintain prisons.

We need more prisons because criminals today serve too little jail time.

We know what happens when criminals are released too soon for lack of prison space: They frequently commit more crimes. Michael Jordan's father's death was allegedly committed by youths who were on parole. The recent Florida killings were also allegedly committed by repeat offenders who had been released after serving only brief jail terms. And the results are in when it comes to experimentation with shorter sentences.

In the 1980's, Texas cut prison terms and increased parole population 400 percent. Punishment for serious crime fell 43 percent in Texas, while it rose 25 percent nationwide. Crime rates over the same period in Texas rose 29 percent, while they fell 4 percent across the country. Similarly, consider the Michigan experience. In the first half of the 1980's, Michigan cut back on prison construction. When national violent crime rates stabilized, the equivalent Michigan rate increased 25 percent by 1986, when the State began to build more prisons. The State's violent crime rate declined 12 percent by 1989, 3 years after the prison construction program began.

We hear the argument that prison construction is the wrong answer. We are told that it is too late by then, and that we should instead focus on preventing criminal activity. I disagree. Prison construction prevents crime. In 1989, a Florida newspaper followed what happened to prisoners that were given early release for lack of prison space. More than 30 percent were rearrested for a crime that occurred within the time they had been scheduled to remain in jail.

These 985 rearrested criminals were charged with 2,180 new crimes, including 11 murders or attempted murders, 63 armed robberies, 6 sexual assaults, 7 kidnapings, 104 aggravated assaults, 199 burglaries, and 451 drug offenses. And those are only the ones for which they were charged. Who knows how many others were committed for which they were not arrested?

The next time you hear someone say that it costs more to send someone to jail than to Harvard, consider how expensive it is not to send a criminal to jail.

Finally, Mr. President, the amendment of the Senator from Utah does not throw bad money after good. It does not merely give more money to States to keep doing what they have been doing. To have their prisoners serve time in the new regional prisons, and to receive new prison construction and operation grants, States will have to get tougher. Because the overwhelming number of criminals are violators of State crimes, we will never solve the problem of inadequate prison space unless the States change their procedures. To obtain these new Federal funds, States will need to adopt truth in sentencing.

Just as in the Federal system, qualifying States need to require criminals to serve at least 85 percent of their sentences, and to adopt sentencing procedures that limit judicial discretion. Today, that discretion frequently leads to grossly inadequate sentences, motivated in part by the lack of jail space to hold prisoners for longer periods. If they seek these new funds, States would also have to adopt pretrial detention procedures similar to those under Federal law. That approach will further reduce crime. Moreover, qualifying States would have to impose serious sentences for serious crimes, including firearms offenders, violent criminals, sex offenders, and child abusers, that were at least as stringent as those imposed under Federal sentencing guidelines. The States would also have to allow the perspective of crime victims to be considered at all appropriate stages.

While the States would not have any existing funding conditioned on adopting these measures, those States that wish to obtain some of these funds—funds which are fully paid for—will need to adopt the kinds of punishment that are necessary to reduce crime.

The amendment of the Senator from Utah thus represents the most effective approach to fighting crime that the Federal Government can undertake. Providing funds to States to build prison space, while at the same time requiring States to enact the kind of anticrime measures that are both effective and urgently needed. I urge my colleagues to vote for this amendment.

STATEMENT IN SUPPORT OF S. 1607

Mr. AKAKA. Mr. President, I am pleased that we are debating amendments to the Violent Crime Control Law Enforcement Act of 1993. I urge my colleagues to continue to put aside partisanship and enact this legislation without delay.

S. 1607 is a comprehensive, broad-based approach that focuses on tough criminal penalties, adequate resources for law enforcement activities, juvenile crime initiatives, and crime prevention and education programs.

The measure authorizes funds for a community policing program that will put 60,000 more police officers on the beat. There is authorization for college scholarships to students who commit

to 4 years service as police officers and a $150 million educational scholarship fund for in-service officers.

S. 1607 authorize funds for State and local law enforcement to support police, rural anticrime efforts, juvenile justice, corrections, and drug treatment in the criminal justice system.

Mr. President, we have travelled this route before. Regrettably, the 102d Congress failed to enact a major crime package after the threat of a Presidential veto prevented the Senate from voting on the crime bill conference report.

However, I am hopeful that we will work swiftly to ensure the safety of all Americans who should be able to walk through their neighborhoods without fear from violence. This measure reflects many of President Clinton's anticrime initiatives for expanding community policing, focusing on gang violence, and providing alternative punishment for young people through boot camps.

S. 1607, however, is only one part of the effort to curb violent crime. Other anticrime components include the Brady bill and the Violence Against Women Act.

I want to relate a recent meeting with the family of John Scully, a young attorney from Hawaii, who was one of eight people murdered by a lone gunman during a rampage through a San Francisco law firm this past summer.

As I sat with John's parents, Niall and Pegi Scully of Honolulu, his wife, Michelle Spiess Scully, who was injured during the shootings, his sister, Megin Scully-Minuth, and her husband. Reed, I became personally involved with the tragedy of a violent crime. Having one son who is a police officer with the Honolulu Police Department, and another who is a physician, I was no longer able to listen to these fine people as merely their Senator. I listened as a parent, a grandfather, and a friend. Despite their recent loss, the Scully family is channeling their grief through the establishment of the John and Michelle Scully Fund, which seeks to reduce handgun-related violence in this country. They were visiting Capitol Hill to urge Members of the Senate to support the Brady bill. Their selflessness was remarkable; their commitment to change Senators' minds steadfast; and their ability to relate as personal a tragedy as this inspiring. Pegi spoke of having to contact her six surviving children to tell them of John's death. Michelle, who was injured in the attack, quietly retold her husband's last words as he shielded her from the gunman. Megin explained that as a physician, the medical costs related to gun violence are staggering. And her father, also a physician, called gun-related violence a devastating public health issue.

Mr. President, I raise this incident because no family is safe from the threat of violence. In my own State of Hawaii, there were 42 murders in 1992. Although the number of murders in 1992 was three less than the year before, the number of reported forcible rapes increased 17.3 percent in that time. This represents the highest increase in the past 15 years, amounting to a 90.5 percent increase. I regret that violence against women continues to plague Hawaii. Of the seven murder victims killed by their spouses, all seven were women. And, there is one rape committed every 20 hours.

I am confident that S. 1607 will provide real answers to the serious problem of youth gangs and youth violence. I have spoken with law enforcement officials in Hawaii who have expressed deepening concern over the growing number of Hawaii youngsters who are joining gangs. Unlike their mainland counterparts, Hawaii gangs generally do not participate in criminal activities and do not sell drugs. However, mainland gang members are infiltrating the State, and of course, our State prison now houses members of some of the mainland's most notorious gangs. There is also the constant threat from international gang members who infiltrate criminal activities in the State.

Hawaii law enforcement officers believe they can, with adequate support, control the growing problem of youth violence and gangs. There are kids at risk and we cannot loose entire generations to our State and Federal prison systems, or worse. We can no longer allow young children to fear for their lives when they go to school. Childhood should be a wondrous time, and we must give back to our children the innocence they have lost.

S. 1607 directly attacks the issue of youth violence, gangs, and the juvenile justice system. This bill would increase penalties for drug trafficking and criminal street gangs, provide juvenile drug trafficking and gang prevention grants to the States and create a bindover system for certain violent juveniles. Moreover, the measure would expand proven programs that deter offenders such as boot camps.

Mr. President, as we debate the different provisions of the crime bill, let me remind my colleagues that there is a war waging within our borders that demand our immediate and diligent attention. We cannot abandon our friends, neighbors and loved ones whose lives are threatened daily by criminal activities that affect all of us.

MORNING BUSINESS

Mr. BIDEN. Mr. President, I ask unanimous consent that there be a period for morning business for up to 8 minutes, with Senators permitted to speak therein for up to 5 minutes.

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

IN MEMORY OF MARCIA VERVILLE

Mr. PELL. Mr. President, it is with great sadness that I rise to pay tribute to Marcia Verville, a valued member of the staff of the Foreign Relation Committee who died earlier this morning.

Marcia joined the committee staff in January 1987 after the retirement of Senator Tom Eagleton for whom she had worked for 16 years. It was in January 1987 that I became chairman of the Senate Foreign Relations Committee after the November 1986 election in which Democrats regained control of the Senate. The first person that I hired as part of the enlarged Democratic staff was Marcia Verville, and that was one of the best decisions I ever made.

I first came to know and admire Marcia when she was on the staff of the Labor and Human Resources Committee on which both Tom Eagleton and I served. She was a highly capable and dedicated professional who excelled in everything she did. When Senator Eagleton became a member of the Foreign Relations Committee during his final 2 years in the Senate, Marcia shifted gears professionally and did an outstanding job of staffing Senator Eagleton's fine work on the committee.

After Senator Eagleton's retirement, Marcia joined the Foreign Relations Committee staff and worked on foreign assistance and international economic issues. She did a superb job both for me and, later, for Senator SARBANES, the able chairman of our International Economic Policy Subcommittee. Many important pieces of legislation owe their existence to the imagination and skill of Marcia Verville.

Irrepressibly cheerful and witty, Marcia was liked by everyone. She had a wonderful sense of humor and a wry view of the world that helped to provide reality checks to all around her who needed them. She was kind, she was thoughtful, and she always wanted to help in any way she could. She did not have to be asked to do things; she instinctively knew what had to be done and did it. I cannot imagine better qualities for a member of the Senate family. We will miss her greatly.

Marcia was devoted to her daughter. Her office was festooned with Alexandra's photographs and artwork. Although Marica worked long, exhausting hours at the committee, she had arranged to spend as much time as possible with her family. Marcia had the right priorities. She was so enormously energetic and capable that devotion to family never diminished her enthusiasm or performance of her responsibilities as a Senate staffer.

Marcia is survived by her husband Richard, her daughter Alexandra, her sister Hazel Zimmerman, and her brother Vincent McCord. My heart goes out to all of them on this loss, and I want them all to know how much we in the Senate benefited from knowing and working with Marcia.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, today we mourn the tragic and untimely death of Marcia Verville, who passed away this morning after a long and valiant battle against cancer.

Marcia was a truly remarkable woman, known to many of us as a wise and exceptionally capable staff member, a dear and loyal friend, and a loving wife and mother.

She worked on the staff of the Senate Foreign Relations Committee since the beginning of 1987, having previously worked with our colleague, Senator Tom Eagleton, for some 16 years on the staff of the Senate Committee on Labor and Human Resources and the staff of the Senate Committee on Governmental Affairs.

This is a tremendous loss not only for her family and her friends, but, Mr. President, it is a tremendous loss for the committee, the Senate, and indeed the Nation that she is no longer here to share with us her extensive knowledge, her sharp wit, and her profound commitment to this Nation's highest ideals.

Many pieces of important legislation passed by this body were shaped by Marcia Verville, and her Nation's values and interests were enhanced by her efforts of more than 20 years as a Senate staffer.

It was a privilege to have worked with her. She was unmatched in her dedication and her effectiveness, admired and respected by all.

One thing that was particularly striking and endearing about Marcia was her ability in the midst of the daily crises and frustrations on the Hill to keep things in perspective, to understand what was truly important, and to maintain through all of it a wonderful sense of humor. She managed to perform an extremely difficult and demanding job with the utmost competence and what often seemed with the utmost ease while making time to spend with her daughter and her husband, who were so very important to her.

Mr. President, it is always a great tragedy and especially a great tragedy when someone is taken from us at such a young and vibrant age with so much yet to accomplish and so much yet to share.

We want Marcia's family to know that our thoughts are with them and that we all miss here deeply. We extend our profound sympathies to her husband, Dick, her daughter, Alexandra, and the other members of her family.

We learned of her death this morning at the very time that a meeting of the Senate Foreign Relations Committee was taking place at which the Secretary of State, Warren Christopher, was testifying. When the committee adjourned, Mr. President, at the conclusion of that hearing, it did so in memory of and in tribute to Marcia Verville. Her contributions, both personal and professional, were of extraordinary quality and will never be forgotten.

Mr. President, I yield the floor.

FEMA AND THE CALIFORNIA FIRES

Mrs. FEINSTEIN. Mr. President, California last week and this crackled with disaster, and I want to focus the attention of the United States Senate on the federal response to an unprecedented outbreak of wildfires.

Last week, after the first fires were reported, I traveled to California with Senator BARBARA BOXER and the new director of the Federal Emergency Management Agency, James Lee Witt, to see firsthand and up close how all levels of government were responding to the crisis. And again this week, as new fires transformed some of Southern California's most beautiful residential areas into grey and empty moonscapes, I closely monitored developments.

Over the past 2 weeks, 17 major fires raced out of control, sweeping more than 200,000 acres and destroying an estimated 1000 homes. Damage now exceeds $1.5 billion.

Tens of thousands of lives have been disrupted, but, miraculously, in these infernos only one life has been lost.

Many of the firestorms were touched off by arsonists for reasons that defy sanity. But as President Clinton said last night when he committed $15 million to assist the victims "you are not alone in facing these fires."

My concern is that as the fires die down our commitment to the victims remains steadfast. In the past, Californians have had a very poor experience with FEMA. Especially following the Loma Prieta earthquake in 1989 and this year's Los Angeles riots, the response by the federal government was slow, bureaucratic and riddled with problems.

More than two years after 3,200 homes were destroyed in the Oakland firestorm, many have still not been rebuilt. Because of the lapse of time, it was necessary for Congress to adopt legislation, which I authored, to give homeowners more time to rebuild and still qualify for income tax benefits.

Helping Californians recover from last week's and now this week's catastrophic wildfires will be a major test for FEMA. Quite frankly, I'm watching to see that it succeeds.

My purpose in spending time in the command centers and on the fire lines was to see how rapidly and effectively FEMA mobilized to assist those victimized by the disaster.

As I follow up, I assigned members of my California staff to each of the disaster assistance centers that have been established in the wake of the various fires. Additionally, I have asked for a status report of all outstanding complaints in California.

With 60-foot high flames pushed by winds gusting at more than 50 miles-an-hour, the fires left terrible devastation behind them.

Last week, 13 fires, raging from Ventura to the Mexican border, blackened more than 168,000 acres and turned 731 structures to ash, causing more than $500 million in damage.

On Tuesday of this week, again driven by strong Santa Ana winds, four new fires burst out of control, charring some 40,000 acres.

By far the most devastating of these fires exploded out of Topanga Canyon into Malibu north of Los Angeles and to the very shore of the Pacific. More than 200 homes were destroyed. By this morning, a containment line was holding around about 60 percent of the 18,000 acres burned so far, but hot spots continued to send flames curling skyward. It was this blaze that claimed a life. Damage in this fire is estimated at $1 billion.

Almost simultaneously, another fire broke out near Banning in Riverside County and swept 8,000 acres and destroyed at least 17 structures before it was brought under control yesterday. Yet another blackened 1,500 acres in Poway in San Diego County before it, too, was controlled.

Personally surveying the fires in Altadena, Riverside, and Laguna Beach, I was starkly reminded about the ferocity of fire: A major firestorm fueled by Santa Ana winds moves with unbelievable speed and without warning; fire often follows an illogical path—a single home on a block in Laguna Beach survived while all of the other homes were destroyed—this is a true testament to fire-resistant roofing and plants such as ice plants that are fire retardant; victims lose everything—and often escape only with the clothes they are wearing and their pets.

FEMA Director Witt, who flew to California last week when the first fires erupted, was again back in the State. Local, State, and Federal resources are pooled to respond to the latest conflagrations. I compliment the director for so swiftly responding to California's heartbreak.

For many, so many families, the dreams and years of effort have turned to ashes. They have lost everything, and in the weeks and months ahead they will need our assistance.

Our hearts go out to the victims of this disaster—and we all pray that the latest fires finally are controlled.

During the ground tour last week, one of the most impressive things I learned about was that California has a unique program known as FireScope.

It's a unified command system that coordinates all firefighting resources—local, state and national. Fire engines, ground crews, helicopters and aerial

tankers are mobilized from throughout California and from other states and joined in a single, concerted effort.

FireScope enabled the quick mobilizations of 80 strike teams of five engines each from all over California to re-enforce the embattled firefighters in Southern California. It provides an impressive model for all states in disasters.

I want to see if the FireScope program can be expanded nationwide—and I intend to work with FEMA director James Lee Witt to see if this is feasible.

In addition, I intend to work with my colleague, Senator BARBARA BOXER, to look at the current Small Business Administration loan program for disaster victims. Loans of 4 percent and 8 percent are available, but in today's marketplace where low commercial interest rate loans are available, these rates may be too high. We will work to see if the loan rate for individuals and businesses can be lowered to offer greater assistance.

In the days and weeks ahead, it is the job of federal agencies to work with local and state government officials to: Make Small Business Administration loans available in a timely fashion to small companies hit hard by the fire, reseed the hillside areas—in the Santa Monica Mountains, above Altadena, and on the hillsides of Laguna Beach and Malibu and in Riverside, San Diego and Ventura counties—to make sure that what the fire left desolate and barren aren't followed by the disaster of mudslides when the rainy season comes; collaborate with local law enforcement officials in apprehending and prosecuting those who deliberately set several of the larger fires. Arson is a wild and indiscriminate crime that selects no single victim but threatens entire communities.

In the Federal, state and local response, delays and excuses can not be tolerated—action is what the people of these hard-pressed communities need right now.

I know I join the entire California delegation in saying that we stand ready to assist—and if any reforms are necessary at FEMA or at any other federal agency to speed the recovery process, I will quickly offer such legislation.

COMPREHENSIVE CHILD IMMUNIZATION ACT OF 1993

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to consideration of Calendar Order No. 214, S. 732, the Comprehensive Child Immunization Act of 1993.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 732) to provide for the immunization of all children in the United States against vaccine-preventable diseases, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE, REFERENCES AND PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Child Immunization Act of 1993".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

(c) PURPOSE.—It is the purpose of this Act to ensure that children in the United States are appropriately immunized against vaccine preventable infectious diseases at the earliest appropriate age.

SEC. 2. MONITORING OF CHILDHOOD IMMUNIZATIONS.

Title XXI of the Public Health Service Act (42 U.S.C. 300aa-1 et seq.) is amended by adding at the end thereof the following new subtitle:

"Subtitle 3—Improved Immunization Delivery and Monitoring Systems

"Part A—List of Vaccines and Administration

"SEC. 2141. LIST OF PEDIATRIC VACCINES; SCHEDULE FOR ADMINISTRATION.

"(a) RECOMMENDED PEDIATRIC VACCINES.—

"(1) IN GENERAL.—The Secretary shall establish a list of the vaccines that the Secretary recommends for administration to all children for the purpose of immunizing the children, subject to such contraindications for particular medical categories of children as the Secretary may establish under subsection (b)(1)(D). The Secretary shall periodically review the list, and shall revise the list as appropriate.

"(2) RULE OF CONSTRUCTION.—

"(A) The list of vaccines specified in subparagraph (B) is deemed to be the list of vaccines maintained under paragraph (1).

"(B) The list of vaccines specified in this subparagraph is the list of vaccines that, for purposes of paragraph (1), is established (and periodically reviewed and as appropriate revised) by the Advisory Committee on Immunization Practices, an advisory committee established by the Secretary, acting through the Director of the Centers for Disease Control and Prevention.

"(b) RECOMMENDED SCHEDULE FOR ADMINISTRATION.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of a pediatric vaccine, the Secretary shall establish (and periodically review and as appropriate revise) a schedule of nonbinding recommendations for the following:

"(A) The number of immunizations with the vaccine that children should receive.

"(B) The ages at which children should receive the immunizations.

"(C) The dose of vaccine that should be administered in the immunizations.

"(D) Any contraindications regarding administration of the vaccine.

"(E) Such other guidelines as the Secretary determines to be appropriate with respect to administering the vaccine to children.

"(2) VARIATIONS IN MEDICAL PRACTICE.—In establishing and revising a schedule under paragraph (1), the Secretary shall ensure that, in the case of the pediatric vaccine involved, the schedule provides for the full range of variations in medical judgment regarding the administration of the vaccine, subject to remaining within medical norms.

"(3) RULE OF CONSTRUCTION.—

"(A) The schedule specified in subparagraph (B) is deemed to be the schedule maintained under paragraph (1).

"(B) The schedule specified in this subparagraph is the schedule that, for purposes of paragraph (1), is established (and periodically reviewed and as appropriate revised) by the advisory committee specified in subsection (a)(2)(B).

"(c) GENERALLY APPLICABLE RULES OF CONSTRUCTION.—This section does not supersede any State law or requirements with respect to receiving immunizations (including any such law relating to religious exemptions or other exemptions under such State laws).

"(d) ISSUANCE OF LIST AND SCHEDULES.—Not later than 180 days after the date of the enactment of this section, the Secretary shall establish the initial list required in subsection (a) and the schedule required in subsection (b).

"Part B—State Registry System for Immunization Information

"SEC. 2145. PURPOSE.

"It is the purpose of this part to authorize the Secretary, in consultation with State public health officials, to establish State registry systems to monitor the immunization status of all children.

"SEC. 2146. GRANTS FOR IMMUNIZATION REGISTRIES.

"(a) IN GENERAL.—For the purpose described in section 2145, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall make an allotment each fiscal year for each State in an amount determined in accordance with section 2151. The Secretary shall make a grant to the State of the allotment made for the State for the fiscal year if the State submits to the Secretary an application in accordance with section 2150 on behalf of the chief executive officer of such State.

"(b) DESIGN OF STATE REGISTRIES.—To carry out the purpose described in section 2145, a State registry established under this part shall be designed to—

"(1) provide accurate and up to date surveillance data regarding immunization rates at the State and local levels;

"(2) assist in identifying localities with inadequate immunization rates to target for necessary remedial assistance;

"(3) assist in the effective administration and management of immunization programs at State and local levels by providing data to guide immunization program efforts;

"(4) assist the State in providing and receiving information on the immunization status of children who move across geographic boundaries that are covered by different State or local registries; and

"(5) facilitate the linkage of vaccine dosage information to adverse events reported to the Centers for Disease Control and Prevention under section 2125(b) and disease outbreak patterns, for the purpose of monitoring vaccine safety and effectiveness.

"(c) ELIGIBLE USE OF FUNDS.—The Secretary may make a grant under subsection (a) only if the State agrees to expend the grant for the purpose of—

"(1) collecting the data described in section 2147;

"(2) operating registries to maintain the data (and establishing such registries, in the case of a State that is not operating such a registry);

"(3) utilizing the data to monitor the extent to which children have received immunizations in accordance with the schedule established under section 2141;

"(4) notifying parents, as appropriate, if children have not received immunizations in accordance with such schedule;

"(5) coordinating and exchanging information with other State registries to allow the monitoring of the immunization status of children changing State of residence; and

"(6) such other activities as the Secretary may authorize with respect to achieving the objectives established by the Secretary for the year 2000 for the immunization status of children in the United States.

"(d) REQUIREMENT REGARDING STATE LAW.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the State involved—

"(A) provides assurances satisfactory to the Secretary that, not later than October 1, 1996, the State will be operating a registry in accordance with this part, including having in effect such laws and regulations as may be necessary to so operate such a registry; and

"(B) agrees that, prior to such date, the State will make such efforts to operate a registry in accordance with this part as may be authorized in the law and regulations of the State.

"(2) RULES OF CONSTRUCTION.—

"(A) With respect to the agreements made by a State under this part, other than paragraph (1)(B), the Secretary may require compliance with the agreements only to the extent consistent with such paragraph.

"(B) The provisions of this part do not authorize the Secretary, as a condition of the receipt of a grant under subsection (a) by a State, to prohibit the State from providing any parent, upon the request of the parent, with an exemption from the requirements established by the State pursuant to this part for the collection of data regarding any child of the parent.

"SEC. 2147. REGISTRY DATA.

"(a) IN GENERAL.—For purposes of section 2146(c)(1), the data described in this section are the data described in subsection (b) and the data described in subsection (c).

"(b) DATA REGARDING BIRTH OF CHILD.—With respect to the birth of a child, the data described in this subsection is as follows:

"(1) The name of each child born in the State involved after the date of the implementation of the registry (in no event shall such date be later than October 1, 1996).

"(2) Demographic data on the child.

"(3) The name of one or both of the parents of the child. If the child has been given up for adoption, any information regarding the identity of the birth parent or parents of the child may not be entered into the registry, or if entered, shall be deleted.

"(4) The address, as of the date of the birth of the child, of each parent whose name is received in the registry pursuant to paragraph (3).

"(c) DATA REGARDING INDIVIDUAL IMMUNIZATIONS.—With respect to a child to whom a pediatric vaccine is administered in the State involved, the data described in this subsection is as follows:

"(1) The name, age, and address of the child.

"(2) The date on which the vaccine was administered to the child.

"(3) The name and business address of the health care provider that administered the vaccine.

"(4) The address of the facility at which the vaccine was administered.

"(5) The name and address of one or both parents of the child as of the date on which the vaccine was administered, if such information is available to the health care provider.

"(6) The type of vaccine.

"(7) The lot number or other information identifying the particular manufacturing batch of the vaccine.

"(8) The dose of vaccine that was administered.

"(9) A notation of the presence of any adverse medical reactions that the child experienced in relation to the vaccine and of which the health care provider is aware, in accordance with section 2125.

"(10) The presence of contraindications noted by the health care provider with respect to administration of the vaccine to the child.

"(11) Such other data regarding immunizations for the child, including identifying data, as the Secretary, in consultation with State public health officials, may require consistent with applicable law (including social security account numbers furnished pursuant to section 205(c)(2)(E) of the Social Security Act).

"(d) LIMITATION.—The Secretary may not establish information reporting requirements in addition to those described in subsection (c) if such requirements are unduly burdensome.

"(e) DATE CERTAIN FOR SUBMISSION TO REGISTRY.—The Secretary may make a grant under section 2146 only if the State involved agrees to ensure that, with respect to a child—

"(1) the data described in subsection (b) are submitted to the registry under such section as soon as possible but in no event later than 8 weeks after the date on which the child is born; and

"(2) the data described in subsection (c) with respect to a vaccine are submitted to such registry as soon as possible but in no event later than 4 weeks after the date on which the vaccine is administered to the child.

"(f) UNIFORMITY IN METHODOLOGIES.—The Secretary shall, in consultation with State public health officials, establish standards regarding the methodologies used in establishing and operating registries under section 2146, and may make a grant under such section only if the State agrees to comply with the standards. The Secretary shall provide maximum flexibility to the States while also retaining a reasonable degree of uniformity among the States in such methodologies for the purpose of ensuring the utility, comparability, and exchange of the data maintained in such registries.

"(g) COORDINATION AMONG STATES.—The Secretary may make a grant under section 2146 to a State only if, with respect to the operation of the registry of the State under such section, the State agrees to transfer that information contained in the State registry pursuant to section 2146 to other States upon the request of such States for such information.

"SEC. 2148. FEDERAL STANDARDS ON CONFIDENTIALITY.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary, in consultation with the States, shall by regulation establish standards providing for maintaining the confidentiality of the identity of individuals with respect to whom data are maintained in registries under section 2146. Such standards shall, with respect to a State, provide that the State is to have in effect laws or regulations regarding such confidentiality, including appropriate penalties for violation of the laws. The Secretary may make a grant under such section only if the State involved agrees to comply with the standards.

"(2) USE OF DISCLOSURE.—

"(A) No personally identifiable information relating to a child or to the parent or guardian of such child that is collected or maintained by the State registry may be used or disclosed by any holder of such information except as permitted for—

"(i) the monitoring of a child's immunization status;

"(ii) oversight, audit, and evaluation of the immunization delivery and registry systems;

"(iii) activities relating to establishing and maintaining a safe and effective supply of recommended childhood vaccine;

"(iv) processing of insurance claims for payment for vaccine administration (but only to the extent necessary for processing claims); and

"(v) administration of the National Vaccine Injury Compensation Program under subtitle 2.

"(B) Information regarding immunizations provided as described in subparagraph (A)(i) may be used or disclosed only with the written authorization of the individual to whom it refers or to the parent with custody of such individual.

"(b) USE OF SOCIAL SECURITY ACCOUNT NUMBERS.—Any usage or disclosure of data in registries under section 2146 that consists of social security account numbers and related information which is otherwise permitted under this part may be exercised only to the extent permitted under section 205(c)(2)(E) of the Social Security Act. For purposes of the preceding sentence, the term 'related information' has the meaning given such term in clause (iv)(II) of such section.

"SEC. 2149. PROVIDER PARTICIPATION.

"(a) IN GENERAL.—The State shall monitor and enforce compliance by health care providers with the requirements of sections 2147 and 2148 and section 2155(b) for all doses of pediatric vaccine administered in the State. The State shall establish procedures satisfactory to the Secretary for discontinuing the distribution of federally purchased or State purchased vaccine for any health care provider who fails to comply with the requirements of section 2147 and for reinstating such vaccine supply to such provider upon receiving from such provider—

"(1) the reports necessary to make current and complete the information that would have been furnished to the State registry between the dates of the provider's termination and reinstatement; and

"(2) satisfactory assurances regarding the provider's future compliance.

"(b) REPORTS TO SECRETARY.—The Secretary may make a grant under section 2146 only if the State involved agrees to submit to the Secretary such reports as the Secretary determines to be appropriate with respect to the activities of the State under this part.

"SEC. 2150. APPLICATION FOR GRANT.

"An application by a State for a grant under section 2146 is in accordance with this section if the application—

"(1) is submitted not later than the date specified by the Secretary;

"(2) contains each agreement required in this part;

"(3) contains any information required in this part to be submitted to the Secretary; and

"(4) 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.

"SEC. 2151. DETERMINATION OF AMOUNT OF ALLOTMENT.

"The Secretary shall determine the amount of the allotments required in section 2146 for States for a fiscal year in accordance with a formula established by the Secretary that allots the amounts appropriated under section 2152 for the fiscal year on the basis of the costs of the States in establishing and operating registries under section 2146.

"SEC. 2152. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, other than section 2153, there are authorized to be appropriated $152,000,000 for fiscal year 1994, $125,000,000 for fiscal year 1995, and $35,000,000 for each of the fiscal years 1996 through 1999.

"SEC. 2153. NATIONAL IMMUNIZATION SURVEILLANCE PROGRAM.

"(a) IN GENERAL.—The Secretary shall establish a national immunization surveillance program for the purpose of assessing the effects of the programs and activities provided for in this

subtitle towards appropriately immunizing children and facilitating State immunization registries. The national immunization surveillance program shall—

"(1) provide technical assistance to States for the development of vaccination registries and monitoring systems; and

"(2) receive aggregate epidemiologic data (that is in a format that is not person specific) collected by States as provided for in section 2147 at intervals determined appropriate by the Secretary for the purpose of—

"(A) compiling accurate and up-to-date surveillance data regarding immunization rates at the State level in order to assess the progress made towards achieving nationally established immunization goals;

"(B) assisting in the effective administration and management of immunization programs at the State level by providing technical assistance to guide immunization program efforts at the request of the State;

"(C) providing technical assistance to States and localities to facilitate monitoring the immunization status of children who move across geographic boundaries that are covered by different State or local registries at the request of such States or localities; and

"(D) monitoring the safety and effectiveness of vaccines by linking vaccine dosage information with adverse events reporting under section 2125(b) and disease outbreak patterns.

"(b) RULE OF CONSTRUCTION.—Nothing in this subtitle shall be construed to authorize the release of person specific information to the Secretary for the purpose of immunization surveillance.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section in each of the fiscal years 1994 through 1999.

"SEC. 2154. REPORT.

"Not later than January 1, 1995, and biennially thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the planning, development, operation and effectiveness of the national immunization surveillance program and the State immunization registries.

"Part C—Distribution of Vaccines, Public Outreach and Education

"SEC. 2155. DISTRIBUTION OF VACCINES.

"(a) IN GENERAL.—

"(1) HEALTH CARE PROVIDERS.—The Secretary shall provide for the distribution, without charge, of recommended pediatric vaccines (in accordance with section 2141) purchased by the Secretary to health care providers who serve children and who—

"(A) are members of a uniformed service, or are officers or employees of the United States;

"(B) are health centers (as defined in section 2162(2)); or

"(C) provide services under section 503 of the Indian Health Care Improvement Act or pursuant to a contract under section 102 of the Indian Self Determination Act.

"(2) STATES.—The Secretary shall provide for the distribution, without charge, of those recommended pediatric vaccines that are purchased by the Secretary and provided to States for the purposes of immunizing medicaid-eligible children, and additional vaccines that may be purchased by the Secretary for children within those States.

"(b) DUTIES OF HEALTH CARE PROVIDERS.—

"(1) FREE PROVISION TO CHILDREN.—A health care provider or entity receiving vaccine under this section may use such vaccine only for administration to children and may not impose a charge for such vaccine. A provider or health care entity may impose a fee that reflects actual regional costs as determined by the Secretary for the administration of such vaccine, except that a provider may not deny a child a vaccination due to the inability of the child's parent to pay an administration fee.

"(2) REPORTING REQUIREMENTS.—A health care provider receiving vaccine under this section shall report the information required under section 2147 to the applicable State registry operated pursuant to a grant under section 2146 if such State registry exists. The provider shall additionally report to such State registry any occurrence reported to the Secretary pursuant to section 2125(b). The provider shall also provide regular and periodic estimates to the State of the provider's future dosage needs for recommended childhood vaccines distributed under this section. All reports shall be made with such frequency and in such detail as the Secretary, in consultation with State public health officials, may prescribe.

"SEC. 2156. IMPROVED IMMUNIZATION DELIVERY, OUTREACH AND EDUCATION.

"(a) FEDERAL EFFORTS.—The Secretary, acting through the Centers for Disease Control and Prevention and in conjunction with State health officials and other appropriate public and private organizations, shall conduct the following activities to improve Federal, State and local vaccine delivery systems and immunization outreach and education efforts:

"(1) NATIONAL PUBLIC AWARENESS CAMPAIGN.—

"(A) IN GENERAL.—The Secretary, in conjunction with State health officials and other appropriate public and private organizations, shall develop and implement a National Immunization Public Awareness Campaign to assist families (through bilingual means if necessary) of children under the age of 2 years, and expectant parents, in obtaining knowledge concerning the importance of having their children immunized and in identifying the vaccines, schedules for immunization, and vaccine provider locations, appropriate with respect to their children.

"(B) IMPLEMENTATION.—In implementing the Campaign under subparagraph (A), the Secretary shall ensure that—

"(i) new and innovative methods are developed and utilized to publicly advertise the need to have children immunized in a timely manner;

"(ii) print, radio and television media are utilized to convey immunization information to the public; and

"(iii) with respect to immunization information, efforts are made to target pregnant women and the parents of children under the age of 2.

"(2) INTERAGENCY COMMITTEE ON IMMUNIZATION.—The Secretary, in conjunction with the Secretary of Agriculture, the Secretary of Housing and Urban Development, and the Secretary of Education, shall carry out activities through the Interagency Committee on Immunization to incorporate immunization status assessments and referral services as an integral part of the process by which individuals apply for assistance under—

"(A) the food stamp program under the Food Stamp Act of 1977;

"(B) section 17 of the Child Nutrition Act of 1966;

"(C) the Head Start Act;

"(D) part A of title IV of the Social Security Act;

"(E) title XIX of the Social Security Act;

"(F) any of the housing assistance laws of the United States; and

"(G) other programs determined appropriate by any of the Secretaries described in this paragraph.

"(3) EXPANDED OPPORTUNITY FOR NATIONAL SERVICE.—The Secretary, in conjunction with the Commission on National and Community Service and other independent agencies, is encouraged to develop opportunities for participants in national and community service programs to contribute to local initiatives for the improvement of immunization services, including public outreach and education efforts.

"(b) GRANTS TO STATES.—

"(1) IN GENERAL.—

"(A) The Secretary may award grants to States to enable such State to develop, revise and implement immunization improvement plans as described in paragraph (2).

"(B) To be eligible to receive a grant under subparagraph (A), a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(2) DESIGN.—A State immunization improvement plan shall be designed to improve immunization delivery, outreach, education and coordination within the State. Such plan shall provide for the creation of—

"(A) a vaccine provider education campaign and the distribution of any other materials determined to be appropriate by State health officials—

"(i) to enable such providers to make the best use of vaccination opportunities; and

"(ii) to educate such providers concerning their obligation to report immunization information with respect to their patients to State registries;

"(B) expanded capacity for the delivery of immunizations through—

"(i) increasing the number or type of facilities through which vaccines may be made available and the capacity of such facilities to immunize more children;

"(ii) developing alternative methods of delivering vaccines, such as mobile health clinics;

"(iii) increasing the number of hours during which vaccines are made available by providers within the State; or

"(iv) coordinating with federally qualified health centers to reach and immunize underserved children through education, outreach, tracking, and the provision of services;

except that, the Secretary may waive any specific requirement of this subparagraph if the Secretary determines that State immunization delivery efforts are sufficient without the imposition of such requirement;

"(C) population-based assessment criteria through which the State is able to assess the effectiveness of immunization activities in the State, which may be fulfilled through the implementation of a State immunization registry under section 2146;

"(D) a public awareness campaign, in conjunction with the National Campaign established under subsection (a)(1), to provide parents with information about the importance of immunization, the types and schedules for the administration of vaccines, and the locations of vaccines providers;

"(E) coordinated community outreach activities among public or private health programs, including local health departments and health centers, and other public or private entities, to encourage and facilitate the ability of parents to obtain immunization services for their children; and

"(F) other activities that are not inconsistent with the purposes of this subtitle, subject to the approval of the Secretary.

"(3) IMMUNIZATION IMPROVEMENT PLAN APPROVAL.—

"(A) GOALS.—As part of the immunization improvement plan of a State, the State shall establish immunization rate goals for children residing within the State.

"(B) APPROVAL.—The immunization improvement plan developed by a State under this subsection shall be submitted to the Secretary for approval prior to the distribution of grant funds to the States under this subsection. The Secretary shall periodically review the progress

that the State has made under such plan in achieving the goals established under subparagraph (A).

"(C) DISTRIBUTION OF GRANTS.—In awarding grants under this section, the Secretary shall ensure that grant awards will be equitably distributed between rural and urban areas. In determining such distribution, the Secretary shall take into account the added costs of supporting the health care delivery infrastructure in sparsely populated areas.

"(D) REPORTING.—A State shall annually prepare and submit to the Director of the Centers for Disease Control and Prevention a report concerning the implementation of the State immunization improvement plan. If the Director or the Secretary, in reviewing the reports submitted under this subparagraph determine that the State has exceeded the goals established under subparagraph (A), the Secretary may award a bonus to the State in an amount not to exceed 5 percent of the amount the State received under the grant for the purposes of the grant.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $250,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1999.

"Part D—General Provisions

"SEC. 2161. REPORT.

"Not later than October 1, 1995, and biennially thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the costs, efficiency, and effectiveness of procedures established to deliver vaccine to health care providers.

"SEC. 2162. NATIONAL VACCINE PROGRAM.

"The Secretary shall authorize a report to be prepared by the National Academy of Sciences concerning the role of the National Vaccine Program established under this title in achieving progress towards the nationally established immunization goals for the year 2000, and recommendations with respect to the changes in such Program that would facilitate greater progress towards achieving such goals.

"SEC. 2163. DEFINITIONS.

"For purposes of this subtitle—

"(1) HEALTH CARE PROVIDER.—The term 'health care provider', with respect to the administration of vaccines to children, means an entity that is licensed or otherwise authorized for such administration under the law of the State in which the entity administers the vaccine, subject to section 333(e).

"(2) HEALTH CENTER.—The term 'health center' means—

"(A) a federally qualified health center, as defined in section 1905(l)(2) of the Social Security Act; or

"(B) a public or nonprofit private entity receiving Federal funds under—

"(i) section 329, 330 or 340;

"(ii) section 340A (relating to grants for health services for residents of public housing); or

"(iii) section 501(a)(2) of the Social Security Act (relating to special projects of regional and national significance).

"(3) IMMUNIZATION.—The term 'immunization' means an immunization against a vaccine-preventable disease.

"(4) PARENT.—The term 'parent', with respect to a child, means a legal guardian of the child.

"(5) PEDIATRIC VACCINE.—The term 'pediatric vaccine' means a vaccine included on the list established under section 2141.

"(6) STATE.—The term 'State' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, the Republic of the Marshall Islands, Micronesia, the Northern Mariana Islands, and Palau.".

SEC. 3. NATIONAL VACCINE INJURY COMPENSATION PROGRAM AMENDMENTS.

(a) AMENDMENT OF VACCINE INJURY TABLE.—

(1) ADDITION OF VACCINES.—Section 2114 (42 U.S.C. 300aa–14) is amended by adding at the end thereof the following new subsection:

"(f) ADDITION OF VACCINES TO TABLE.—

"(1) IN GENERAL.—The Vaccine Injury table contained in subsection (a) shall also include any recommended childhood vaccine included in the list promulgated by the Secretary under section 2141.

"(2) REVIEW OF INFORMATION AND REVISION.—Not later than 2 years after the addition of a new vaccine to the table contained in subsection (a), and on a regular basis thereafter, the Secretary shall review information obtained under sections 2125 and part B of subtitle 3, and based on such review (and other relevant information) shall, as appropriate, develop with respect to such new vaccine—

"(A) revisions with respect to illnesses, disabilities, injuries or conditions covered by such table;

"(B) appropriate specifications of the time period for the first symptom or manifestation of onset or of significant aggravation of such illnesses, disabilities, injuries or condition after vaccine administration, for purposes of receiving compensation under the Program; and

"(C) recommendations as to the amount of tax that should be imposed under section 4131 of the Internal Revenue Code of 1986 for each dose of vaccine.

"(3) LIMITATION.—The Secretary may modify the table contained in subsection (a) pursuant to paragraphs (1) and (2) only in accordance with subsection (c).

"(4) REVISION.—For purposes of section 2116(b), the addition of vaccine to the table contained in subsection (a) by operation of this subsection shall constitute a revision of the table.".

(2) ATTORNEYS' FEES.—Section 2115(e) (42 U.S.C. 300aa-15(e)) is amended by adding at the end thereof the following new paragraph:

"(4) The special master may award reasonable attorneys' fees whether or not an election has been made under section 2121(a) to file a civil action concerning such petition.".

(3) CONSENT FOR ANNUITY.—Subparagraphs (A) and (B) of section 2115(f)(4) are amended by striking ", with the consent of the petitioner," each place that such appears.

(4) TIME PERIODS FOR FEES AND COSTS.—

(A) IN GENERAL.—Section 2115(e) (42 U.S.C. 300aa–15(e)) (as amended by paragraph (3)) is further amended by adding at the end thereof the following new paragraph:

"(5) With respect to a petitioners' application for attorneys' fees and costs—

"(A) if the respondent enters no objection to such application within 21 days of the date on which the application was filed (unless such time period is extended by the special master with the consent of the petitioner) the special master shall enter a decision on such application within 30 days of such filing;

"(B) if the respondent files an objection to such application and the special master does not enter a decision with respect to the application within 60 days after the date on which the objection is filed, the special master involved shall, upon the written request of the petitioner, enter a decision within 15 days after the filing of such request; and

"(C) if the respondent files an objection to such application and the petitioner moves to reduce costs and fees as provided for in the objection, the special master shall enter a decision within 5 days after the receipt of the petitioner's motion.

The chief special master, upon the request of a special master, may waive the time limitations applicable to the special master under this paragraph if the special master demonstrates that complicating factors exist with respect to the issues involved to which the time limitation applies.".

(B) APPLICATION.—The amendment made by subparagraph (A) shall apply to all petitioners' applications for attorneys' fees and costs filed under section 2115(e) of the Public Health Service Act which are pending on the date of enactment of this Act.

(5) AUTHORIZATION OF APPROPRIATIONS.—Section 2115(j) (42 U.S.C. 300aa–15(j)) is amended by striking "$80,000,000 for each succeeding fiscal year" and inserting in lieu thereof "$110,000,000 for each succeeding fiscal year".

(6) LIMITATION OF ACTIONS.—Section 2116(b) (42 U.S.C. 300aa–16(b)) is amended by striking "such person may file" and inserting "or to significantly increase the likelihood of obtaining compensation, such person may, notwithstanding section 2111(b)(2), file".

(b) EXTENSION OF TIME FOR DECISION.—

(1) JURISDICTION.—Section 2112(d)(3)(D) (42 U.S.C. 300aa–12(d)(3)(D)) is amended by striking "540 days" and inserting "30 months (but for not more than 6 months at a time)".

(2) REPORT ON COLLECTIONS.—Section 2117 (42 U.S.C. 300aa–17) is amended by adding at the end thereof the following new subsection:

"(c) REPORT.—The Attorney General shall, on January 1 of each year, prepare and submit to the appropriate committees of Congress a report concerning amounts collected under this section.".

(3) INCREASED RESPONSIBILITIES OF COMMISSION.—Section 2119(f) (42 U.S.C. 300aa–19(f)) is amended—

(A) by striking "and" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting ", and"; and

(C) by adding at the end thereof the following new paragraph:

"(6) monitor the balance of the Vaccine Injury Trust Fund established by section 9510 of the Internal Revenue Code and, as appropriate, recommend changes in the tax per dose of vaccine imposed under section 4131 of such Code.".

(c) SIMPLIFICATION OF VACCINE INFORMATION MATERIALS.—

(1) INFORMATION.—Section 2126(b) (42 U.S.C. 300aa–26(b)) is amended—

(A) by striking "by rule" in the matter preceding paragraph (1);

(B) in paragraph (1), by striking "90" and inserting "30"; and

(C) in paragraph (2), by striking ", appropriate health care providers and parent organizations".

(2) REQUIREMENTS.—Section 2126(c) (42 U.S.C. 300aa–26(c)) is amended—

(A) in the matter preceding paragraph (1), by inserting "shall be based on available data and information," after "such materials"; and

(B) by striking out paragraphs (1) through (10) and inserting in lieu thereof the following new paragraphs:

"(1) a concise description of the benefits of the vaccine;

"(2) a concise description of the risks associated with the vaccine;

"(3) a statement of the availability of the National Vaccine Injury Compensation Program;

"(4) a statement of the availability from the Secretary of more detailed written information concerning the information required under paragraphs (1), (2), and (3), that shall be made available to the parent, legal guardian, or other responsible person upon request; and

"(5) such other relevant information as determined appropriate by the Secretary.".

(3) OTHER INDIVIDUALS.—Subsections (a) and (d) of section 2126 (42 U.S.C. 300aa–26 (a) and (d)) are amended by inserting "or to any other individual" immediately after "to the legal representative of any child" each place that such occurs.

(4) PROVIDER DUTIES.—Subsection (d) of section 2126 (42 U.S.C. 300aa-26(d)) is amended—

(A) by striking all after "subsection (a)," the second place it appears in the first sentence and inserting "supplemented with visual presentations or oral explanations, in appropriate cases."; and

(B) by striking "or other information" in the last sentence.

(d) AUTHORIZATION OF APPROPRIATIONS.—Part A of subtitle 2 of title XXI (42 U.S.C. 300aa-10 et seq.) is amended by adding at the end thereof the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 2120. (a) SECRETARY.—For purposes of administering this part, there are authorized to be appropriated from the Vaccine Injury Compensation Trust Fund established under section 9510(c) of the Internal Revenue Code of 1986, to the Secretary, $3,000,000 for each of the fiscal years 1994, 1995, and 1996.

"(b) ATTORNEY GENERAL.—For purposes of administering this part, there are authorized to be appropriated from the Vaccine Injury Compensation Trust Fund described in subsection (a), to the Attorney General, $3,000,000 for each of the fiscal years 1994, 1995, and 1996.

"(c) COURT OF FEDERAL CLAIMS.—For purposes of administering this part, there are authorized to be appropriated from the Vaccine Injury Compensation Trust Fund described in subsection (a), to the Court of Federal Claims, $3,000,000 for each of the fiscal years 1994, 1995, and 1996.".

SEC. 4. MISCELLANEOUS PROVISIONS.

Section 317(k) (42 U.S.C. 247b(k)) is amended—

(1) by striking out paragraph (1); and

(2) by redesignating paragraphs (2) through (5) as paragraphs (1) and (4), respectively.

SEC. 5. FEDERAL TORT CLAIMS AMENDMENTS.

(a) CLARIFICATION OF COVERAGE OF OFFICERS AND EMPLOYEES OF CLINICS.—The first sentence of section 224(g)(1) of the Public Health Service Act (42 U.S.C. 233(g)(1)) is amended by striking "officer, employee, or contractor" and inserting the following: "officer or employee of such an entity, and any contractor".

(b) COVERAGE FOR SERVICES FURNISHED TO INDIVIDUALS OTHER THAN PATIENTS OF CLINIC.—Section 224(g) of such Act (42 U.S.C. 233(g)(1)), as amended by paragraph (1), is further amended—

(1) in the first sentence of paragraph (1), by inserting after "Service" the following: "with respect to services provided to patients of the entity and (subject to paragraph (7)) to certain other individuals"; and

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

"(7) For purposes of paragraph (1), an officer, employee, or contractor described in such paragraph may be deemed to be an employee of the Public Health Service with respect to services provided to individuals who are not patients of an entity described in paragraph (4) only if the Secretary determines—

"(A) that the provision of the services to such individuals benefits health center patients and general populations that could be served by the health center through community-wide intervention efforts within the communities served by such health center, and facilitates the provision of services to health center patients; or

"(B) that such services are otherwise required to be provided to such individuals under an employment contract (or other similar arrangement) between the individual and the entity.".

(c) DETERMINING COMPLIANCE OF ENTITY WITH REQUIREMENTS FOR COVERAGE.—

(1) IN GENERAL.—Section 224(h) of such Act (42 U.S.C. 233(h)), as added by section 2(b) of the Federally Supported Health Centers Assistance Act of 1992, is amended by striking "the entity—" and inserting the following: "the Secretary, after receiving such assurances and conducting such investigation as the Secretary considers necessary, finds that the entity—".

(2) FINDING.—Section 224 of such Act (42 U.S.C. 233) is amended by adding at the end thereof the following new subsection:

"(l) With respect to subsection (h), the finding of the Secretary that an entity meets all of the requirements under such subsection shall apply for the period specified by the Secretary, and shall be binding for all parties unless the Secretary reverses such finding for good cause shown at a later date.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Federally Supported Health Centers Assistance Act of 1992.

AMENDMENT NO. 1106

(Purpose: To provide for the establishment of a performance-based grant program)

Mr. BIDEN. Mr. President, on behalf of Senator KENNEDY and Senator KASSEBAUM, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] for Mr. KENNEDY, for himself and Mrs. KASSEBAUM, proposes an amendment numbered 1106.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 31, line 4, strike "and".

On page 31, line 8, strike the period and insert "; and".

On page 31, between lines 8 and 9, insert the following:

"(C) has in effect such laws and regulations as may be necessary to ensure the following safeguards for the rights of parents:

"(i) An exemption for the parent, upon the request of the parent, from the requirements established by the State, pursuant to this part, for the collection of data described in subsections (b) and (c) of section 2147, or the collection of any other data regarding any child of the parent that the State may require for incorporation in the State immunization registry.

"(ii) Restrictions ensuring that no information relating to a child or to the parent or guardian of a child that is collected or maintained by the State immunization registry pursuant to this part, or the national immunization surveillance program established under section 2153, will be used as a basis for the criminal prosecution or the commencement of a criminal investigation of a parent or guardian.".

On page 50, line 3, add after the period the following new sentence: "The Secretary shall give special consideration to those States that have low childhood immunization rates and that submit plans that demonstrate the State's substantial effort and commitment to improving such rates.".

On page 50, line 8, strike "If the Director" and all that follows through line 15.

On page 50, between lines 19 and 20, insert the following:

"SEC. 2157. PERFORMANCE BASED GRANT PROGRAM.

"(a) ANNUAL REPORT.—Not later than July 1 of each year, a State shall prepare and submit to the Director of the Centers for Disease Control and Prevention a report that contains an estimate (based on a base population sample) of the percentage of 2 year old residents of the State who have been fully immunized as described in subsection (c).

"(b) PAYMENTS TO STATES.—

"(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall provide to a State that has submitted an annual report under subsection (a) that demonstrates that the State has fully immunized at least 50 percent of the 2 year old residents of that State, with respect to the year for which the report was prepared, a payment in an amount equal to—

"(A) with respect to a State that has demonstrated the full immunization of at least 50 and less than 64 percent of all 2 year old residents of the State, $50 multiplied by the number of fully immunized 2 year old resident children in excess of the number of children equaling such 50 percent amount;

"(B) with respect to a State that has demonstrated the full immunization of at least 65 and less than 70 percent of all 2 year old residents of the State, $75 multiplied by the number of fully immunized 2 year old resident children in excess of the number of children equaling such 65 percent amount; and

"(C) with respect to a State that has demonstrated the full immunization of at least 70 and less than 91 percent of all 2 year old residents of the State, $100 multiplied by the number of fully immunized 2 year old resident children in excess of the number of children equaling such 70 percent amount.

"(2) USE OF FUNDS.—

"(A) CONDITION.—As a condition of receiving amounts under this section a State that uses a combination of Federal and State funds in achieving the immunization goals described in paragraph (1) shall agree to reinvest, in activities related to improving immunization services, that percentage of the payments to the State under paragraph (1) that is equal to the amount of Federal contributions to immunization services in the State as compared to the amount of the State contributions to such services.

"(B) DISCRETIONARY USE.—A State that has demonstrated that the use of State-only funds was responsible for the increase in the immunization rate which qualified such State for payments under paragraph (1), may use amounts awarded under this section for other purposes, at the discretion of the State.

"(3) VERIFICATION.—Prior to making a payment to a State under this subsection, the Secretary shall, in collaboration with the Centers for Disease Control and Prevention, verify the accuracy of the State report involved.

"(c) DEFINITION.—For purposes of this section, the term 'fully immunized' means a 2 year old child that has received four doses of DTP vaccine (diphtheria, tetanus, pertussis), three doses of polio vaccine, and one dose of MMR (measles, mumps, rubella) vaccine.

On page 61, strike out line 3 and insert the following:

"SEC. 5. AMENDMENTS TO THE FEDERALLY SUPPORTED HEALTH CENTERS ASSISTANCE ACT OF 1992.".

On page 63, between lines 6 and 7, insert the following:

(d) PAYMENT OF JUDGMENTS.—Section 224(k)(2) of such Act (42 U.S.C. 233(k)(2)), as added by section 4 of the Federally Supported Health Centers Assistance Act of 1992, is amended by adding at the end thereof the following new sentence: "Appropriations for purposes of this paragraph shall be made separate from appropriations made for purposes of sections 329, 330, 340 and 340A.".

On page 63, line 7, strike "(d)" and insert "(e)".

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 1106) was agreed to.

Mr. KENNEDY. Mr. President, I urge the Senate to adopt S. 732, the Comprehensive Child Immunization Act of 1993. President Clinton has taken the lead in calling for a comprehensive plan for childhood immunizations. By passing this measure, we can bring that vision closer to reality. I commend the efforts of my colleagues, particularly Senator KASSEBAUM and her staff. Their outstanding contributions to this effort have made S. 732 an excellent example of what can be achieved through bipartisan cooperation on critical issues in health care.

This act addresses some of the most serious barriers to childhood immunization and provides worthwhile solutions and needed resources to overcome them.

As we know, major causes of low immunization rates include lack of access to immunization, inadequate public awareness of the importance of vaccinations, and missed opportunities by health care professionals to offer needed immunizations to children they see as patients.

This legislation provides the necessary resources to strengthen the public health system for the delivery of immunization services. It addresses the practical needs of local health departments and public clinics. It provides support to expand community outreach efforts and improves access to immunization.

This bill is also a significant step toward comprehensive health reform. Preventive health care, including immunization, avoids the tragedy of unnecessary illness and reduces costs at the same time. The savings are clear. For every $1 spent on immunization, $10 are saved in later costs of treating illnesses that should have been prevented. But beyond the facts and figures, this measure is important in human terms. Few measures we have considered this year are more important than protecting the lives of children from preventable diseases and disabilities. This is a promise we can make, and keep.

I urge the Senate to adopt this legislation, and I look forward to its enactment.

I ask unamious consent that the several letters be printed in the RECORD.

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

AMERICAN ACADEMY OF PEDIATRICS,
Washington, DC, October 13, 1993.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the American Academy of Pediatrics, I want to lend our strong support to you and Senator Kassebaum for S.732, the "Comprehensive Child Immunization Act of 1993." This important piece of legislation completes the initiatives set out by the Administration in its childhood immunization initiative which was only partially addressed in the Budget Reconciliation bill.

Investments in the vaccine delivery infrastructure, health education and outreach and the development of a vaccine registry/tracking system are critical to our ability to improve our nation's immunization rates. We pay a high price for immunization failures in this country. Your bill finally breaks down the barriers that have frustrated the system for far too long.

Immunizations represent one of the most promising tools we have in getting children into personal, primary care with a doctor who knows his/her name. While we await the passage of national health care reform, I can think of no better interim measure to assure that our children do not have to wait while the broader policy issues are debated. The entire nation will reap the benefits of protecting our children from the ravages of preventable diseases.

We applaud your leadership on this initiative and look forward to working with you to secure its passage.

Sincerely yours,
HOWARD A. PEARSON, M.D.
President.

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, May 19, 1993.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC

Re childhood immunizations.

DEAR SENATOR KENNEDY: Immunization of children against vaccine-preventable diseases is the most effective preventive health action available. The United States has achieved an excellent record of immunizing children of school age because of the mandatory school immunization laws that have been adopted by all states. The record is much worse, however, for immunizing children by their second birthday against diphtheria, tetanus, pertussis, poliomyelitis, measles, mumps, rubella, HiB, and HVB. Surveys of immunization levels of preschool age children document that nationally only 60% of children have completed the basic series of immunizations by age 2 and, in many cities and some rural areas in the United States, fewer than 40% of these children are fully immunized. As a consequence, vaccine-preventable diseases that were almost rare two decades ago have showed a resurgence and, in some instances such as measles, have again become epidemic during the last decade. To respond to this situation, one of the objectives in the national plan Healthy People 2000 is to achieve complete basic immunization for 90% of children by their second birthday by the year 2000.

The AMA supports this goal and commends the Congress and the Administration for making this issue such a high public health priority. The AMA supports a vaccine program that removes financial barriers to the immunization of young children and also addresses the need to educate and motivate parents.

The Comprehensive Child Immunization Act, S. 732 would create such a program. It would also encourage vaccines to continue to be provided as part of the primary health care system, which is highly beneficial from the standpoint of children's overall health. Also essential is creation of an efficient immunization recordkeeping system.

We urge you to include additional improvements to the National Vaccine Injury Compensation Program in any vaccine legislation you approve. We are concerned about the lapse in spending authority and collection of the vaccine excise tax. In addition, the AMA supports the recommendations of the Department of Health and Human Services to revise the existing Vaccine Injury Table and the section of the Act on "Qualifications and Aids to Interpretation" to more accurately reflect scientific findings and correct medical judgements.

Again, we commend you for placing high priority on improving our childhood immunization program. Significant public health benefits will surely result from an enhanced effort to reach our immunization goals for young children.

Sincerely,
JAMES S. TODD, MD,
Executive Vice President.

CHILDREN'S DEFENSE FUND,
Washington, DC, October 15, 1993.

Hon. EDWARD KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR: I am writing to support wholeheartedly S. 732, the Comprehensive Child Immunization Act of 1993. This legislation is an essential companion to the pediatric vaccine purchase bill included in the Budget Reconciliation Act of 1993 and includes the key provisions needed for the U.S. to build a sound effort to immunize all of our pre-schoolers.

Our country's appallingly low immunization rate—only 56 percent of two years olds in America are appropriately immunized—is the result of many factors: high vaccine costs; lack of parental awareness of the importance of immunization; missed opportunities by providers to immunize children; and immunization services which are difficult to access. The provision of free vaccines for all Medicaid-eligible and uninsured children will remove cost as a barrier to timely immunization for millions of children. However, this alone will not be sufficient to raise the poor immunization rates of our nation's preschoolers to the levels we need. If we are to ensure that all children are immunized on time we must have a comprehensive strategy which addresses each of the contributing factors. The remaining pieces of such a strategy are embodied in S. 732.

Your bill provides grants for states to develop immunization implementation plans which propose specific solutions to the barriers to immunization and identify immunization rate goals for children in each state. These grants will enable states to improve access to immunization services by increasing the number of facilities which offer childhood immunization and increasing their hours and staffing levels. Missed opportunities will be reduced through provider education, and public awareness of the need for immunization will be heightened through a multi-media campaign. Underserved communities will gain access to immunization services by improved coordination between public and private programs. And states which exceed their stated immunization rate goals will be awarded a bonus.

In addition, grants to states for the establishment of registry and tracking systems are critical. It allows for the identification of communities with low immunization rates and enables these communities to target community outreach and education efforts. And the provision in the legislation requiring cooperation between federal agencies

with programs that can assess immunization status and make referrals for children, such as WIC, Food Stamps and Head Start, will be important to minimize the number of children who now fall through the cracks.

I want to thank you for your continued leadership on childhood immunization, and feel confident that this legislation will guarantee success in meeting our nation's goal of universal immunization.

Sincerely,

MARIAN WRIGHT EDELMAN.

STATEMENT OF SUPPORT FOR THE COMPREHENSIVE CHILD IMMUNIZATION ACT OF 1993

We, the undersigned organizations, applaud President Clinton's initiative to protect all of America's children against preventable diseases. It is unacceptable that almost half of our nation's preschoolers are not fully immunized. The nation's shameful immunization record is a testament to the need for comprehensive health care reform to guarantee comprehensive health care coverage for all Americans. This legislation is an important step towards that goal.

The President's initiative will guarantee that no child will go unimmunized because his or her family cannot afford the shot. It is unacceptable that forty percent of American preschoolers are not fully immunized when each dollar invested in immunizations saves our society more than $10 in health care costs by preventing disease and disability. This legislation will also create a national immunization registry to follow the vaccination status of individual children. The registry will provide reminder notices to families for their children's shots and identify communities with low coverage rates for outreach and public education. The Act will also improve Medicaid coverage of immunizations for low-income children, and reauthorize the National Vaccine Injury Compensation Program.

Action for Families and Children of Delaware.
Advocates for Children and Youth.
American Academy of Family Physicians.
American Association of University Affiliated programs for Persons with Developmental Disabilities.
American College of Nurse-Midwives.
American Dental Association.
American Federation of State, County, and Municipal Employees.
American Federation of Teachers.
American Hospital Association.
American Indian Health Care Association.
American Public Health Association.
American School Health Association.
American Speech-Language-Hearing Association.
The ARC (formerly the Association of Retarded Citizens.
Association for Supervision and Curriculum Development (ASCD).
Association for the Care of Children's Health.
Association of Junior Leagues International.
Association of Maternal and Child Health Programs.
Association of Schools of Public Health (ASPH)
Association of State and Territorial Health Officers
Bridgeport Child Advocacy Coalition
Catholic Charities, USA.
Child Welfare League of America.
Children Now.
Children's Advocacy Institute (California).
The Children's Alliance, Seattle, Washington.
The Children's Council of San Francisco.
Children's Defense Fund.
The Children's Foundation.
Children's Health Fund.
Children's Policy Institute of West Virginia.
Citizens for Missouri's Children.
Colorado Children's Campaign.
Community Services, Inc. (Head Start).
Consumers Union.
Fiordia Children's Forum.
Friends Committee on National Legislation.
Georgia Alliance for Children.
Hadassah, the Women's Zionist Organization of America.
Hawaii Advocates for Children and Youth.
Human Development Center of Mississippi.
Interfaith Impact for Justice and Peace.
Jesuit Social Ministries, National Office.
Lutheran Office of Governmental Affairs (ELCA).
March of Dimes Birth Defects Foundation.
Maryland Committee for Children.
Massachusetts Advocacy Center.
Massachusetts Committee for Children and Youth.
Michigan Head Start Child Development Association.
Michigan League for Human Services.
Mid-Michigan District Health Department.
Mississippi Human Services Agenda.
Missouri Valley Human Resource Head Start.
National Association for the Education of Young Children.
National Association of Children's Hospitals and Related Institutions.
National Association of Community Action Agencies.
National Association of Community Health Centers.
National Association of Developmental Disabilities Councils.
National Association of Partners in Education, Inc. (NAPE).
National Association of WIC Directors.
National Black Child Development Institute, Inc.
National Black Nurses Association.
National Community Education Association (NCEA).
National Easter Seal Society.
National Indian Education Association.
National PTA.
National Parent Network on Disabilities.
New Hampshire Alliance for Children and Youth.
North Carolina Child Advocacy Institute.
Office of Domestic Social Development, U.S. Catholic Conference.
Pennsylvania Head Start Staff Association.
Pennsylvania Partnerships for Children.
Philadelphia Citizens for Children and Youth.
Planned Parenthood Federation of America.
Results, Inc.
San Francisco Child Abuse Council.
Service Employees International Union.
Statewide Youth Advocacy, Inc.
Sudden Infant Death syndrome Alliance (SIDS Alliance).
Unitarian Universalist Association of Congregations.
United Auto Workers of America.
United Cerebral Palsy Associations.
United Educators of San Francisco.
The Children's Council of San Francisco.
The Vaccine Project.
Vermont Children's Forum.
Virginia Perinatal Association.
Wisconsin Council on Children and Families, Inc.
Women's Legal Defense Fund.
Zero to Three/National Center for Clinical Infant Programs.

Mrs. KASSEBAUM. Mr. President, I am pleased to join my colleague Senator KENNEDY in requesting the immediate consideration of S. 732, the Comprehensive Child Immunization Act of 1993. This legislation, which was approved unanimously by the Committee on Labor and Human Resources, provides a broad-based strategy to improve our Nation's low pre-school immunization rates. S. 732's provisions were approved by the full Senate as part of the 1993 Omnibus Budget Reconciliation Act, but were dropped from the conference report due to Byrd rule considerations.

The measles epidemic of 1989 and periodic outbreaks of other preventable diseases reveal our Nation's alarmingly low preschool immunization rates. Fewer than 60 percent of 2-year olds in most States are fully immunized, and in some cities, fewer than 10 percent are fully immunized.

The National Vaccine Advisory Committee's 1991 study of the measles epidemic and its 1992 follow-up report and recommendations, as well as public health administrators across the Nation, have identified the lack of parental and public awareness of the importance of preschool immunizations, missed opportunities to vaccinate children when they receive other health care services, and overburdened, understaffed, and inaccessible public health service clinics as the major causes of our Nation's low immunization rates.

S. 732 addresses these problems by providing an additional $250 million to the States to develop and strengthen public and parental outreach and education programs and to expand clinic sites, hours, and staff to make immunization services readily available. While States are given broad flexibility in designing and carrying out plans to improve immunization rates, they must work with the Secretary of Health and Human Services to establish measurable outcome goals as to a condition of receiving grants.

I am especially supportive of provisions in S. 732 which make immunization a priority in all Federal and Federal/State programs serving children and their families. S. 732 makes the assessment of immunization status a routine part of the application for Medicaid, Head Start, food stamps, child nutrition, and similar programs, with referral for services as needed.

Another barrier to improving immunization rates is the lack of comprehensive, timely data on immunizations at the local, State, and national level. S. 732 authorizes optional grants to the States to develop immunization registries and to supply aggregate State data to the Centers for Disease Control and Prevention to guide Federal efforts to improve immunization rates.

I am aware that the immunization registry provisions as originally introduced provoked concern about the protection of parental rights and privacy and the potential use of registry data for purposes other than immunizations. During Committee consideration of S. 732, the original registry provisions were modified to clarify that nothing in the legislation would overturn or modify any State exemptions from immunization requirements, that States could permit parents to opt out of registries, and that the data in the registries could be used only for purposes directly relating to immunizations. In addition, provisions were adopted to limit the functions of the national registry to the collection of aggregate data from the States and the provision of technical assistance to the States at their request.

The floor manager's amendment to this legislation offered by Senator KENNEDY and myself further strengthens S. 732. It includes an amendment offered by Senator BUMPERS during the consideration of the 1993 Omnibus Budget Reconciliation Act to provide incentive grants to States that meet or exceed immunization target levels. It also includes provisions which further strengthen parental rights and privacy protections relating to immunization registries, which further clarify that registry data may not be used for criminal prosecutions for child neglect or abuse, and which require States to allow parents to opt out of participating in immunization registries.

Finally, S. 732 also amends the Vaccine Injury Compensation program to permit program improvements and to make information about immunizations more understandable and accessible to parents.

I urge my colleagues to join me in supporting the passage of S. 732 to achieve the goal I know we share of ensuring that our Nation's children are fully immunized against preventable childhood diseases.

Mr. DANFORTH. Mr. President, I rise today in support of childhood immunization legislation, S. 732 as it was reported by the Labor Committee and amended by the manager's amendment. I applaud the bipartisan approach with which this effort was undertaken, and I believe that this legislation focuses on many of the true barriers to childhood immunization in our country. I want to express my appreciation to Senators KENNEDY and KASSEBAUM for their leadership in this matter.

As we noted in the numerous hearings and meetings on childhood immunization this year, our Nation's rate of childhood immunization is disturbingly low. Although over 90 percent of children are fully vaccinated by the time they enter grade school only 40 to 60 percent are fully vaccinated by age 2. When I visited St. Louis Children's Hospital in 1989, the leading cause of admission was measles. There should not be even a single case of measles in St. Louis or anywhere else; we have the ability to protect children from the dreaded diseases that plagued children in past decades. In the years following the measles epidemic of 1989–90, we have learned alot about what is causing our low immunization rates. And overwhelmingly, we have heard that it is a problem of educating parents and providers about the urgency of timely immunization, improving outreach and improving the delivery of vaccines by expanding clinic locations and hours, making use of mobile vans, et cetera.

Education, outreach and delivery were the major focus of legislation I introduced earlier this year on behalf of myself and Senators KASSEBAUM, DURENBERGER, GREGG, and BOND—the National Immunization Improvement Act of 1993, S. 887—and I appreciate the fact that many aspects of that legislation were merged with a similar initiative introduced by Senator KENNEDY, S. 732.

I hope that with renewed focus on this issue and with the enlarged and appropriately targeted resources provided by this legislation, we are on the road to significant improvement in timely immunization our Nation's children.

Mr. HELMS. Mr. President, I thank the able managers of the bill for including as part of the manager's floor amendment my amendment to S. 732, the Comprehensive Child Immunization Act of 1993.

As most Senators are aware, S. 732 sets up a computerized registry—at both the State and national levels—to keep track of all the children in America and their immunization status. The stated purposes for having the public health authorities keep an eye on our children this way are admirable, but I am uncomfortable in permitting and enabling the Federal and State governments to maintain such an extensive and longtime surveillance over children and their parents.

Hundreds of parents from across the country agree; they have written me in opposition to legislation, which they see as an unwarranted governmental intrusion into their privacy, as well as a violation of their constitutional right to religious freedom.

Senators on the other side of the aisle may be interested to learn that even the liberal American Civil Liberties Union shares many of these concerns about big government and has joined with conservative pro-family groups in advocating changes and privacy protections in the bill.

Mr. President, the distinguished managers have agreed to incorporate a number of protections for parents. My amendment requires the States, as a condition for receiving funding under this bill, to have in effect laws safeguarding the rights and privacy of parents by:

First, providing parents with an exemption, at their request, from any State-imposed requirements for the collection of data about their children for the purpose of including such information in a computerized immunization registry; and second, prohibiting the use of any information relating to a child or parent, maintained in a computerized immunization registry, from being used as the basis for processing, or beginning a criminal investigation of, a parent or legal guardian of a child.

Mr. President, while this provision does not, and cannot, guarantee that the national immunization surveillance network—created by this bill—will never be misused by overzealous government bureaucrats, it does go a long way toward ensuring that parents have some rights and protections if actual attempts to misuse the national registry do in fact occur.

Again, I thank the managers of the bill for agreeing to my amendment. I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (S. 732), as amended, was passed, as follows:

(The text of S. 732, as passed, will appear in a future edition of the RECORD.)

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the bill was passed and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 1993

Mr. BIDEN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on (S. 616), a bill to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Compensation Rates Amendments of 1993".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of

an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. DISABILITY COMPENSATION.

Section 1114 is amended—

(1) by striking out "$85" in subsection (a) and inserting in lieu thereof "$87";

(2) by striking out "$162" in subsection (b) and inserting in lieu thereof "$166";

(3) by striking out "$247" in subsection (c) and inserting in lieu thereof "$253";

(4) by striking out "$352" in subsection (d) and inserting in lieu thereof "$361";

(5) by striking out "$502" in subsection (e) and inserting in lieu thereof "$515";

(6) by striking out "$632" in subsection (f) and inserting in lieu thereof "$648";

(7) by striking out "$799" in subsection (g) and inserting in lieu thereof "$819";

(8) by striking out "$924" in subsection (h) and inserting in lieu thereof "$948";

(9) by striking out "$1,040" in subsection (i) and inserting in lieu thereof "$1,067";

(10) by striking out "$1,730" in subsection (j) and inserting in lieu thereof "$1,774";

(11) by striking out "$2,152" and "$3,015" in subsection (k) and inserting in lieu thereof "$2,207" and "$3,093", respectively;

(12) by striking out "$2,152" in subsection (l) and inserting in lieu thereof "$2,207";

(13) by striking out "$2,371" in subsection (m) and inserting in lieu thereof "$2,432";

(14) by striking out "2,698" in subsection (n) and inserting in lieu thereof "$2,768";

(15) by striking out "$3,015" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$3,093";

(16) by striking out "$1,295" and "$1,928" in subsection (r) and inserting in lieu thereof "$1,328" and "$1,978", respectively; and

(17) by striking out "$1,935" in subsection (s) and inserting in lieu thereof "$1,985".

SEC. 3. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 1115(1) is amended—

(1) by striking out "$103" in clause (A) and inserting in lieu thereof "$105";

(2) by striking out "$174" and "$54" in clause (B) and inserting in lieu thereof "$178" and $55", respectively;

(3) by striking out "$71" and "$54" in clause (C) and inserting in lieu thereof "$72" and $55", respectively;

(4) by striking out "$82" in clause (D) and inserting in lieu thereof "$84";

(5) by striking out "$191" in clause (E) and inserting in lien thereof "$195"; and

(6) by striking out "$160" in clause (F) and inserting in lieu thereof "$164".

SEC. 4 CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 1162 is amended by striking out "$466" and inserting in lieu thereof "$478".

SEC. 5. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 1311 is amended—

(1) in subsection (a)(1), by striking out "$750" and inserting in lieu thereof "$769";

(2) in subsection (a)(2), by striking out "$165" and inserting in lieu thereof "$169";

(3) by striking (a)(3), by striking out the table therein and inserting in lieu thereof the following:

"Pay grade	*Monthly rate*
E–7	$794
E–8	838
E–9	[1]875
W–1	812
W–2	844
W–3	869
W–4	920
O–1	812
O–2	838
O–3	897
O–4	948
O–5	1,044
O–6	1,177
O–7	1,271
O–8	1,392
O–9	1,492
O–10	[2]1,636

[1] "If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Crops, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $943.

[2] "If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $1,753.";

(4) in subsection (c), by striking out "$191" and inserting in lieu thereof "$195"; and

(5) in subsection (d), by striking out "$93" and inserting in lieu thereof "$95".

SEC. 6. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

(a) DIC FOR ORPHAN CHILDREN.—Section 1313(a) is amended—

(1) by striking out "$319" in clause (1) and inserting in lieu thereof "$327";

(2) by striking out "$460" in clause (2) and inserting in lieu thereof "$471";

(3) by striking out "$595" in clause (3) and inserting in lieu thereof "$610"; and

(4) by striking out "$595" and "$117" in clause (4) and inserting in lieu thereof "$610" and "$120", respectively.

(b) SUPPLEMENTAL DIC FOR DISABLED ADULT CHILDREN.—Section 1314 is amended—

(1) by striking out "$191" in subsection (a) and inserting in lieu thereof "$195";

(2) by striking out "$319" in subsection (b) and inserting in lieu thereof "$327";

(3) by striking out "$162" in subsection (c) and inserting in lieu thereof "$166".

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall take effect on December 1, 1993.

Amend the title so as to read: "An Act to amend title 38, United States code, to provide a cost-of-living adjustment in the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans.".

VETERANS' COMPENSATION RATES AMENDMENTS OF 1993

Mr. ROCKEFELLER. Mr. President, as the chairman of the Committee on Veterans' Affairs, I rise today to urge the Senate to pass S. 616, the proposed Veterans' Compensation Rates Amendments of 1993.

Mr. President, effective December 1, 1993, this bill would increase the rates of compensation paid to veterans with service-connected disabilities and the rates of dependency and indemnity compensation, or DIC, paid to the survivors of certain service-disabled veterans. The rates would increase by 2.6 percent, the same percentage as the increase in Social Security and VA pension benefits for fiscal year 1994.

Mr. President, there are 2.2 million service-disabled veterans and 345,000 survivors who depend on these compensation programs. These individuals have made enormous sacrifices on behalf of this Nation. As chairman of the Committee on Veterans' Affairs, I am committed to ensuring that these veterans and veterans' survivors receive the benefits they deserve. I believe strongly that we have a fundamental obligation to meet the needs of those who became disabled as the result of military service, as well as the needs of their families. This measure fulfills one of the most important aspects of that obligation.

Mr. President, ever since I began my career in public service, I have worked closely with the veterans of my home State of West Virginia, and now, as chairman of the Committee on Veterans' Affairs, I have had the opportunity to work with veterans all across the country. Consequently, I am keenly aware of the fact that the compensation payments that would be increased by this bill have a profound effect on the everyday lives of the veterans and veterans' survivors who receive them. It is our responsibility to continue to provide cost-of-living adjustments in compensation and DIC benefits in order to guarantee that the value of these essential, service-connected VA benefits is not eroded by inflation.

I am very proud that Congress consistently has fulfilled its obligation to make sure that the real value of these benefits is preserved by providing an annual COLA for compensation and DIC benefits every fiscal year since 1976. Most recently, on October 24, 1992, Congress enacted Public Law 102–510, providing a 3.0-percent increase in these benefits, effective December 1, 1992.

Mr. President, we cannot ever repay the debt we owe to the individuals who have sacrificed so much for our country. Service-disabled veterans and the survivors of those who died as the result of service-connected conditions are reminded daily of the price they have paid for the freedom we all enjoy. The very least we can do is protect the value of the benefits they have earned through their sacrifice.

Mr. President, I urge all of my colleagues to support this vitally important measure.

Mr. DOMENICI. Mr. President, I rise today as a strong support of this bill, S. 616, the veterans' compensation COLA bill of 1993. This bill will provide our veterans with a 2.6 percent cost-of-living adjustment—a well-needed and well-deserved increase in their monthly compensation benefits.

Through this bill, approximately 2.5 million veterans and their survivors will received increases in their monthly compensation payments. This increase is intended to boost the payment we give to veterans who have suffered a loss in their earning capacity due to a service-related injury.

This compensation increase also benefits survivors by making up for the loss of family income caused by the death or disability of a service person. In my home State of New Mexico, approximately 19,000 veterans will receive increases in compensation and an additional 2,600 survivors will collect additional funds in their dependency and indemnity compensation checks.

These payments will be included in the monthly checks issued on December 4, 1993. Today, the number of veterans who are affected by this legislation is steadily growing as more military personnel leave the forces. The House and Senate Veterans' Affairs Committees should be congratulated for shepherding this bill through the legislative process in a timely manner. I also want to commend both chairmen for reporting legislation that complies with the provisions of the Budget Enforcement Act of 1990 and the Omnibus Budget Reconciliation Act of 1993.

I am pleased the Senate is completing the process of passing this legislation which means so much to our nation's veterans. It is crucial we support our armed services personnel—support those who made such a tremendous sacrifice to keep our country safe and I certainly believe we will do so through passage of this legislation.

Mr. BIDEN. Mr. President, I move that the Senate concur en bloc in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Delaware.

The motion was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the motion was agreed to and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURES PLACED ON THE CALENDAR—H.R. 3350, H.R. 3353, H.R. 3354, H.R. 3355

Mr. BIDEN. Mr. President, I ask unanimous consent that H.R. 3350, H.R. 3353, H.R. 3354, H.R. 3355, bills related to crime just received from the House, be placed on the Calendar.

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

MEASURE PLACED ON THE CALENDAR—H.R. 2814

Mr. BIDEN. Mr. President, I ask unanimous consent H.R. 2814, the Civil Rules Amendments Act of 1993, just received from the House, be placed on the Calendar.

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

DESIGNATING THE ROBERT F. PECKHAM U.S. COURTHOUSE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 243, H.R. 1345, a bill designating the Robert F. Peckham U.S. Courthouse and Federal building in San Jose, CA, that the bill be deemed read three times, passed and the motion to reconsider laid upon the table; that any statements relating thereto appear in the RECORD at the appropriate place.

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

The bill (H.R. 1345) was deemed read three times and passed.

AUTHORIZING THE FBI TO OBTAIN CERTAIN TELEPHONE SUBSCRIBER INFORMATION

Mr. BIDEN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 175, a bill to authorize the FBI to obtain certain telephone subscriber information, and that the Senate then proceed to its immediate consideration; that the bill be deemed read three times, passed and the motion to reconsider laid upon the table; that any statements relating to this measure appear in the RECORD at the appropriate place and as if given.

The PRESIDING OFFICER. Without objection it is so ordered.

The bill (H.R. 175) was deemed read three times and passed.

FBI ACCESS TO CERTAIN TELEPHONE SUBSCRIBER INFORMATION

Mr. LEAHY. Mr. President, H.R. 175 is an amendment to section 2709 of the Electronic Communications Privacy Act. In 1986, Congress passed the Electronic Communications Privacy Act [ECPA] which updated the Federal wiretap statute to cover emerging electronic communications. At that time, Congress provided that the Government could obtain subscriber identifying information from telephone companies only pursuant to a subpoena or court order, and only if the information is relevant to a criminal investigation—18 U.S.C. 2703. I note that this bill does not change the fundamental requirements of section 2703.

Section 2709 is a limited exception to that rule. It requires a certification by a designated FBI official that the information sought is relevant to an authorized foreign counterintelligence investigation and that 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 or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978.

Some time ago, the FBI came to Congress seeking to expand the scope of section 2709 to compel wire and electronic communications service providers to identify those persons who have been in contact with foreign powers or suspected agents of foreign powers. Initially, I was concerned that the proposal was simply too broad. After lengthy discussions between the Senate and House Judiciary Committees, the Intelligence Committees and the Bureau, Congressman EDWARDS and I worked out this compromise language that would allow the FBI to get subscriber information—name, address, and length of service—of a person who is in communication with a foreign power or an agent of a foreign power under circumstances giving reason to believe that the communication concerned international terrorism or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States.

Finally, the current law provides that on a semiannual basis the Director of the FBI fully inform the permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all requests made by the Bureau under subsection 2709(b). H.R. 175 requires that this same notice be given to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate as well.

I believe that this bill is an appropriate balance of the FBI's need to conduct counterintelligence investigations with the rights of Americans to preserve both their first amendment rights and their right to privacy.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Edwin R. Thomas, 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 a withdrawal and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF PROPOSED LEGISLATION TO IMPLEMENT THE NORTH AMERICAN FREE-TRADE AGREEMENT—MESSAGE FROM THE PRESIDENT—PM 65

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

I am pleased to transmit today legislation to implement the North American Free-Trade Agreement, an agreement vital to the national interest and to our ability to compete in the global economy. I also am transmitting a number of related documents required for the implementation of NAFTA.

For decades, the United States has enjoyed a bipartisan consensus on behalf of a free and open trading system. Administrations of both parties have negotiated, and Congresses have approved, agreements that lower tariffs and expand opportunities for American workers and American firms to export their products overseas. The result has been bigger profits and more jobs here at home.

Our commitment to more free and more fair world trade has encouraged democracy and human rights in nations that trade with us. With the end of the cold war, and the growing significance of the global economy, trade agreements that lower barriers to American exports rise in importance.

The North American Free-Trade Agreement is the first trade expansion measure of this new era, and it is in the national interest that the Congress vote its approval.

Not only will passage of NAFTA reduce tariff barriers to American goods, but it also will operate in an unprecedented manner—to improve environmental conditions on the shared border between the United States and Mexico, to raise the wages and living standards of Mexican workers, and to protect our workers from the effects of unexpected surges in Mexican imports into the United States.

This pro-growth, pro-jobs, pro-exports agreement—if adopted by the Congress—will vastly improve the status quo with regard to trade, the environment, labor rights, and the creation and protection of American jobs.

Without NAFTA, American business will continue to face high tariff rates and restrictive nontariff barriers that inhibit their ability to export to Mexico. Without NAFTA, incentives will continue to encourage American firms to relocate their operations and take American jobs to Mexico. Without NAFTA, we face continued degradation of the natural environment with no strategy for clean-up. Most of all, without NAFTA, Mexico will have every incentive to make arrangements with Europe and Japan that operate to our disadvantage.

Today, Mexican tariffs are two and a half times greater than U.S. tariffs. This agreement will create the world's largest tariff-free zone, from the Canadian Arctic to the Mexican tropics—more than 370 million consumers and over $6.5 trillion of production, led by the United States. As tariff walls come down and exports go up, the United States will create 200,000 new jobs by 1995. American goods will enter this market at lower tariff rates than goods made by our competitors.

Mexico is a rapidly growing country with a rapidly expanding middle class and a large pent-up demand for goods—especially American goods. Key U.S. companies are poised to take advantage of this market of 90 million people. NAFTA ensures that Mexico's reforms will take root, and then flower.

Moreover, NAFTA is a critical step toward building a new post-cold war community of free markets and free nations throughout the Western Hemisphere. Our neighbors—not just in Mexico but throughout Latin America—are waiting to see whether the United States will lead the way toward a more open, hopeful, and prosperous future or will instead hunker down behind protective, but self-defeating walls. This Nation—and this Congress—have never turned away from the challenge of international leadership. This is no time to start.

The North American Free-Trade Agreement is accompanied by supplemental agreements, which will help ensure that increased trade does not come at the cost of our workers or the border environment. Never before has a trade agreement provided for such comprehensive arrangements to raise the living standards of workers or to improve the environmental quality of an entire region. This makes NAFTA not only a stimulus for economic growth, but a force for social good.

Finally, NAFTA will also provide strong incentives for cooperation on illegal immigration and drug interdiction.

The implementing legislation for NAFTA I forward to the Congress today completes a process that has been accomplished in the best spirit of bipartisan teamwork. NAFTA was negotiated by two Presidents of both parties and is supported by all living former Presidents of the United States as well as by distinguished Americans from many walks of life—government, civil rights, and business.

They recognize what trade expanding agreements have meant for America's economic greatness in the past, and what this agreement will mean for America's economic and international leadership in the years to come. The North American Free-Trade Agreement is an essential part of the economic strategy of this country: expanding markets abroad and providing a level playing field for American workers to compete and win in the global economy.

America is a Nation built on hope and renewal. If the Congress honors this tradition and approves this agreement, it will help lead our country into the new era of prosperity and leadership that awaits us.

WILLIAM J. CLINTON

THE WHITE HOUSE, *November 3, 1993.*

REPORT RELATIVE TO THE NORTH AMERICAN FREE TRADE AGREEMENT-MESSAGE FROM THE PRESIDENT—PM 66

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

By separate message, I have transmitted to the Congress a bill to approve and implement the North American Free Trade Agreement (NAFTA). In fulfillment of legal requirements of our trade laws, that message also transmitted a statement of administrative action, the NAFTA itself, and certain supporting information required by law.

Beyond the legally required documents conveyed with that message, I want to provide you with the following important documents:

—The supplemental agreements on labor, the environment, and import surges;

—Agreements concluded with Mexico relating to citrus products and to sugar and sweeteners;

—The border funding agreement with Mexico;

—Letters agreeing to further negotiations to accelerate duty reductions;

—An environmental report on the NAFTA and side agreements;

—A list of more technical letters related to NAFTA that have previously been provided to the Congress and that are already on file with relevant congressional committees.

These additional documents are not subject to formal congressional approval under fast-track procedures. However, the additional agreements provide significant benefits for the United States that will be obtained only if the Congress approves the NAFTA. In that sense, these additional agreements, as well as the other documents conveyed, warrant the careful consideration of each Member of Congress. The documents I have transmitted in these two messages constitute the entire NAFTA package.

I strongly believe that the NAFTA and the other agreements will mark a significant step forward for our country, our economy, our environment, and our relations with our neighbors on this continent. I urge the Congress to seize this historic opportunity by approving the legislation I have transmitted.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 4, 1993.*

MESSAGES FROM THE HOUSE

At 4 p.m., a message from the House of Representatives, delivered by Mr.

Hays, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 2684. An act to reauthorize and amend the National Fish and Wildlife Foundation Establishment Act, and for other purposes.

H.R. 2814. An act to permit the taking effect of certain proposed rules of civil procedure, with modifications.

H.R. 3188. An act to prohibit fishing in the Central Sea of Okhotsk, and for other purposes.

H.R. 3350. An act to establish a program of residential substance abuse treatment within Federal prisons.

H.R. 3353. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to develop more effective programs to reduce juvenile gang participation and juvenile drug trafficking.

H.R. 3354. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants for the purpose of developing and implementing residential substance abuse treatment programs within State correctional facilities, in which inmates are incarcerated for a period of time sufficient to permit substance abuse treatment.

H.R. 3355. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety.

H.J. Res. 271. Joint resolution designating the month of November in each of calendar years 1993 and 1994 as "National American Indian Heritage Month."

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 616. An act to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 3167) to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and it appoints the following Members as managers of the conference on the part of the House: from the Committee on Ways and Means, for consideration of the House bill, and Senate amendment No. 2, and modifications committed to conference: Mr. ROSTENKOWSKI, Mr. FORD of Tennessee, and Mr. ARCHER; from the Committee on Post Office and Civil Service, for consideration of Senate amendment No. 1, and modifications committed to conference: Mr. CLAY, Mr. MCCLOSKEY, and Mr. MYERS of Indiana.

At 9:11 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 bill:

H.R. 1308. An Act to protect the free exercise of religion.

MEASURES REFERRED

The following bills and joint resolution were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2685. An act to reauthorize and amend the National Fish and Wildlife Foundation Establishment Act, and for other purposes; to the Committee on Environment and Public Works.

H.R. 3188. An act to prohibit fishing in the Central Sea of Okhotsk, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.J. Res. 271. Joint resolution designating the month of November in each of calendar years 1993 and 1994 as "National American Indian Heritage Month"; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bills and joint resolutions were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2814. An act to permit the taking effect of certain proposed rules of civil procedure, with modifications.

H.R. 3350. An act to establish a program of residential substance abuse treatment within Federal prisons.

H.R. 3353. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to develop more effective programs to reduce juvenile gang participation and juvenile drug trafficking.

H.R. 3354. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants for the purpose of developing and implementing residential substance abuse treatment programs within State correctional facilities, as well as within local correctional facilities, as well as within local correctional facilities in which inmates are incarcerated for a period of time sufficient to permit substance abuse treatment.

H.R. 3355. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative effects between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety.

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-1723. A communication from the Secretary of Energy, transmitting, pursuant to law, a report on continued production of the naval petroleum reserves beyond April 5, 1994; to the Committee on Armed Services.

EC-1724. A communication from the Assistant Secretary of Defense (Personnel and Readiness), transmitting, pursuant to law, a report of the joint officer promotion rates; to the Committee on Armed Services.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-312. A resolution adopted by the Council of the County of Hawaii, Hilo, Hawaii relative to natural disaster insurance; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S.J. Res. 143. A joint resolution providing for the appointment of Frank Anderson Shrontz as a citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 103-170).

S.J. Res. 144. A joint resolution providing for the appointment of Manuel Luis Ibanez as a citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 103-171).

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. Res. 161. An original resolution to authorize the printing of a revised edition of the Senate Election Law Guidebook.

By Mr. ROCKEFELLER, from the Committee on Veterans Affairs, without amendment:

S. 1510. A bill to amend title 38, United States Code, to increase the amount of the loan guaranty for loans for the purchase or construction of homes.

By Mr. ROCKEFELLER, from the Committee on Veterans Affairs, without amendment:

S. 1620. An original bill to amend title 38, United States Code, to permit the burial in cemeteries of the National Cemetery System of certain deceased Reservists and the dependents of such reservists.

S. 1621. An original bill to revise certain authorities relating to Pershing Hall, France.

By Mr. ROCKEFELLER, from the Committee on Veterans Affairs, without amendment and with a preamble:

S.J. Res. 129. A joint resolution to authorize the placement of a memorial cairn in Arlington National Cemetery, Arlington, Virginia, to honor the 270 victims of the terrorist bombing of Pan Am Flight 103.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. FORD, from the Committee on Rules and Administration:

Michael F. DiMario, of Maryland, to be Public Printer.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Joseph A. Dear, of Washington, to be an Assistant Secretary of Labor.

Ernest W. DuBester, of New Jersey, to be a Member of the National Mediation Board for a term expiring July 1, 1995.

Diane B. Frankel, of California, to be Director of the Institute of Museum Services.

Charles C. Masten, of Virginia, to be Inspector General, Department of Labor.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. McCAIN (for himself, Mr. INOUYE, Mr. MURKOWSKI, Mr. GORTON, and Mr. SIMON):

S. 1618. A bill to establish Tribal Self-Governance, and for other purposes; to the Committee on Indian Affairs.

By Mr. METZENBAUM:

S. 1619. A bill to create the Insurance Regulatory Commission; to the Committee on Commerce, Science, and Transportation.

By Mr. ROCKEFELLER:

S. 1620. An original bill to amend title 38, United States Code, to permit the burial in cemeteries of the National Cemetery System of certain deceased Reservists and the dependents of such reservists; from the Committee on Veterans Affairs; placed on the calendar.

S. 1621. An original bill to revise certain authorities relating to Pershing Hall, France; from the Committee on Veterans Affairs; placed on the calendar.

By Mr. BREAUX:

S. 1622. A bill to amend the Internal Revenue Code of 1986 to treat geological, geophysical, and surface casing costs like intangible drilling and development costs, and for other purposes; to the Committee on Finance.

By Mr. LEAHY:

S. 1623. A bill to require the Secretary of Agriculture to carry out procedures for debarment of persons engaged in nonprocurement programs and activities with the Department of Agriculture who have violated the regulations of a program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. STEVENS (for himself and Mr. PRYOR):

S. 1624. A bill to standardize withdrawal options for Thrift Savings Plan participants, and for other purposes; to the Committee on Governmental Affairs.

By Mr. BROWN (for himself and Mr. MOYNIHAN):

S. 1625. A bill to prohibit the sale of defense articles and defense services to countries that participate in the secondary and tertiary boycott of Israel; to the Committee on Foreign Relations.

By Mr. ROCKEFELLER (for himself, Mr. DECONCINI, Mr. GRAHAM, Mr. AKAKA, Mr. DASCHLE, and Mr. CAMPBELL):

S. 1626. A bill to amend title 38, United States Code, to revise the Veterans' Home Loan Program; to the Committee on Veterans Affairs.

By Mr. MITCHELL (for himself and Mr. DOLE) (by request):

S. 1627. A bill to implement the North American Free Trade Agreement; to the Committee on the Judiciary, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, the Committee on Finance, the Committee on Foreign Relations and the Committee on Governmental Affairs, jointly, pursuant to 19 U.S.C. 2191(c).

By Mr. CONRAD:

S. 1628. A bill to encourage each State to adopt Truth in Sentencing laws and to help fund additional spaces in the State correctional programs as needed; 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. FORD:

S. Res. 161. An original resolution to authorize the printing of a revised edition of the Senate Election Law Guidebook; from the Committee on Rules and Administration; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCAIN (for himself, Mr. INOUYE, Mr. MURKOWSKI, Mr. GORTON, and Mr. SIMON):

S. 1618. A bill to establish tribal self-governance, and for other purposes; to the Committee on Indian Affairs.

TRIBAL SELF-GOVERNANCE ACT OF 1993

Mr. McCAIN. Mr. President, this year much fanfare has been given to the idea of reinventing Government. The Vice President recently released his report entitled: "Creating a Government That Works Better and Costs Less." This report makes a number of recommendations for changing the way the Federal Government does business today. Unfortunately, the administration's report overlooked one of the true success stories about reinventing government that is taking place right now: the tribal self-governance demonstration project.

The self-governance demonstration project is a tribally driven initiative that was first enacted into law in 1988. The goal of this project is to examine the benefits of allowing Indian tribal governments to assume more control over programs and services to their members which are now largely provided through the Bureau of Indian Affairs. The project permits participating tribes to enter into compacts for self-governance and annual funding agreements with the Federal Government. Pursuant to these agreements, management authority over specific programs and services is transferred from the BIA to Indian tribal governments. In turn, each participating tribal government is allowed to redesign and operate those programs and services with minimal regulation and BIA involvement.

Last week the Committee on Indian Affairs held an oversight hearing to review the status of the project. Despite continued foot-dragging by the Bureau of Indian Affairs—a bureaucratic virus that has also afflicted the Indian Health Service, all of the self-governance tribes expressed continued enthusiasm for the project and urged the committee to establish the project on a permanent basis. Based on their individual experiences, the tribes collectively believe that permanent status is necessary because the Bureau of Indian Affairs continues to view the self-governance project as a temporary program. Once the demonstration period is over, the Bureau apparently believes that it can simply return to business as usual. In this instance, however, the BIA has seriously miscalculated its ability to stifle change. Self-governance is here to stay. The reason self-governance is here to stay is best captured in a statement by the Lummi tribe:

> The Self-Governance Demonstration Project is an historic effort to break a pattern of dominance and dependency. While some Federal programs in the past have allowed Indian Tribes to implement certain limited programs, Self-Governance offers the chance for us to assume total control of our economic, political, and social futures, and to demonstrate that we can accomplish what the BIA has not been willing or able to do in 120 years.

I have received numerous letters from self-governance tribes endorsing permanent self-governance legislation. These letters include examples of the many positive effects that tribes have experienced under self-governance, such as improvements in education, economic development, law enforcement, tribal courts, forestry, public works, community services, cultural programs, and tribal government operations. In general, Indian tribes feel: First, they are able to more effectively design programs and services to the needs of tribal members; second, self-governance has made tribal governments more responsive to the concerns of tribal members; and third, self-governance has allows the tribes to be more independent from the Bureau of Indian Affairs.

I want to emphasize that the self-governance program is purely voluntary. No tribe is forced to participate; in fact, such a requirement would be contrary to the whole concept of self-governance. I also want to emphasize that this program is not about equity funding. Unfortunately, Federal Indian programs are already severely underfunded. It is my hope that the Congress will not only increase funding for Indian programs, but will also ensure that such funding actually goes toward meeting the needs of the Indian people rather than the needs of a bloated Federal bureaucracy. Under self-governance, tribes have the opportunity to accomplish the latter goal. In fact, the tribal leader for the Mille Lacs Band of Ojibwe Indians, testified that her tribe has gone from receiving 11 cents on the dollar under BIA administration to 50 cents on the dollar

under self-governance. That is what self-governance is all about. Allowing tribes to utilize Federal funding that is intended for their benefit and well-being.

Mr. President, our Constitution confers on the Congress the ultimate authority and responsibility for the relations between the Federal Government and the tribes. With this authority and responsibility comes the duty to ensure the fulfillment of the trust. These are not passing whims or fancies of the day. They are solemn legal and, I believe, moral obligations which are deeply embedded in our history as a Nation. Unfortunately, for the better part of two centuries, the Congress has so poorly exercised that authority that Federal Indian policy has become infamous for its shortsightedness, inconsistency, and disruptive consequences. President Nixon best summarized the situation in his 1970 special message to the Congress on Indian Affairs.

* * * The removal of Federal trusteeship responsibility has produced considerable disorientation among the affected Indians and has left them unable to relate to a myriad of Federal, State and local assistance efforts. Their economic and social condition has often been worse after termination than it was before. * * * The very threat that this (trust) relationship may someday be ended has created a great deal of apprehension among Indian groups and this apprehension, in turn, has had a blighting effect on tribal progress. Any step that might result in greater social, economic or political autonomy is regarded with suspicion by many Indians who fear that it will only bring them closer to the day when the Federal government will disown its responsibility and cut them adrift.

In short, one extreme policy, forced termination, has often worked to produce the opposite extreme: excessive dependence on the Federal government. In many cases this dependence is so great that the Indian community is almost entirely run by outsiders who are responsible to Federal officials in Washington, D.C., rather than to the communities they are supposed to be serving.

I believe we have a chance to write a new chapter in Federal-Indian relations. As we do, it is important to remember that from time immemorial, Indian tribes have been and will continue to be permanent governmental bodies exercising those basic powers of government, as do Federal and State governments, to fulfill the needs of their citizens. Under our constitutional system of government, the right of tribes to be self-governing and to share in our Federal system must not be diminished.

Over the long and tragic course of America's treatment of them, Indian leaders have persistently urged the Federal Government to work with them to arrive at sensible solutions to their problems. In 1961, at a meeting in Chicago of over 400 tribal leaders, that request was eloquently renewed in this urgent appeal:

What we ask of America is not charity, not paternalism, even when benevolent. We ask only that the nature of our situation be recognized and made the basis of policy and action.

Mr. President, on behalf of all of the current self-governance tribes and their members, and on behalf of all those who seek to give true meaning to the concept of Indian self-determination, I am pleased to introduce today legislation to make self-governance permanent. I am joined in this effort by the distinguished chairman of the Indian Affairs Committee, Senator INOUYE, and Senators MURKOWSKI, GORTON, and SIMON.

The bill I am introducing today would make self-governance permanent within the Department of the Interior. The bill also provides the opportunity each year for up to 20 new tribes to negotiate self-governance agreements. The limitation on the number of tribes is based on the current ability of the Office of Self-Governance to annually process new self-governance agreements. As the ability of the office to process more agreements becomes apparent, the committee will respond accordingly. Finally, the bill provides for negotiated rulemaking. The inclusion of the negotiated rulemaking concept—first enacted by the Congress in 1990—is consistent with the goals of the program. That is, negotiated rulemaking procedures are generally designed to require a Federal agency to negotiate with the interests most affected, in this case the self-governance tribes, in the process of developing proposed regulations subsequently published for public review and comment. I would also note that this particular portion of the bill is consistent with the President's Executive Order No. 12875, calling upon the various Federal agencies to reduce the imposition of unfunded mandates upon State, local and tribal governments, in particular, the excessive micromanagement and unnecessary regulation from the Federal Government.

Noticeably absent in this bill is the application of permanent status to the Indian Health Service. Although some participating tribes argued for such application, in the final analysis it became apparent that because self-governance authority was not applicable to the Indian Health Service until 1992, an additional period for demonstration purposes is required. The committee fully intends, however, to revisit the issue of making self-governance permanent for the Indian Health Service in the near future.

In closing, I want to read from a letter I recently received from one tribal leader which, I think, provides a tribal perspective on this debate:

The Federal bureaucracy, predominantly through the Bureau of Indian Affairs and the Indian Health Service, have dominated, controlled and manipulated our lives and government operations to the point that American Indians are the most regulated peoples in America.

Other Federal Agencies have sought to redefine our presence to fit uniformity and convenience with labels such as organizations, corporations, associations, constituents, or even vendors. On the other side of the definition game, the Office of Management and Budget generally rules that Tribal governments are not included in Congressional assistance legislation intended for the common "State and Local Units of Government and Trust Territories" designation. Through the Tribally driven Self-Governance legislation, Tribes and Congress are finally setting the record straight and forcing the bureaucracies to recognize our governmental status. We certainly expect this tension of a Federal bureaucracy predisposition to uniformity against the Tribal demand for clear recognition to continue on into the future. But the fundamental principle is established in the Tribal Self-Governance permanent legislation regarding our unique relationships with the United States and the individual Indian Tribes and our inherent right of Self-Governance.

Mr. President, I ask unanimous consent that a copy of the bill, a section-by-section analysis, letters of support from various tribal governments, and Executive Order 12875, be printed in the RECORD.

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

S. 1618

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 "Tribal Self-Governance Act of 1993".

SEC. 2. FINDINGS.

Congress finds that—

(1) the tribal right of self-governance flows from the inherent sovereignty of Indian tribes and nations;

(2) the United States recognizes a special government-to-government relationship with Indian tribes, including the right of the tribes to self-governance, as reflected in the Constitution, treaties, Federal statutes, and the course of dealings of the United States Government with Indian tribes;

(3) although progress has been made, the Federal bureaucracy, with its centralized rules and regulations, has eroded tribal self-governance and dominates tribal affairs;

(4) the Tribal Self-Governance Demonstration Project was designed to improve and perpetuate the government-to-government relationship between Indian tribes and the United States, and to strengthen tribal control over Federal funding and program management; and

(5) Congress has reviewed the results of the Tribal Self-Governance Demonstration Project and finds that—

(A) transferring control to tribal governments, upon tribal request, over funding and decisionmaking for Federal programs, services, functions, and activities intended to benefit Indians, is an effective way to implement the Federal policy of government-to-government relations with Indian tribes; and

(B) transferring control to tribal governments, upon tribal request, over funding and decisionmaking for Federal programs, services, functions, and activities strengthens the Federal policy of Indian self-determination.

SEC. 3. DECLARATION OF POLICY.

It is the policy of this Act to permanently establish and implement Self-Governance—

(1) to enable the United States to maintain and improve its unique and continuing relationship with, and responsibility to, Indian tribes;

(2) to permit each Indian tribe to choose the extent of the participation of such tribe in Self-Governance;

(3) to co-exist with the provisions of the Indian Self-Determination Act relating to provision of Indian services by designated Federal agencies;

(4) to ensure the continuation of the trust responsibility of the United States to Indian tribes and Indian individuals;

(5) to permit an orderly transition from Federal domination of programs and services to provide Indian tribes with meaningful authority to plan, conduct, redesign, and administer programs, services, functions, and activities that meet the needs of the individual tribal communities; and

(6) to provide for an orderly transition through a planned and measurable parallel reduction in the Federal bureaucracy.

SEC. 4. TRIBAL SELF-GOVERNANCE.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) is amended by adding at the end the following new title:

"TITLE IV—TRIBAL SELF-GOVERNANCE

"SEC. 401. ESTABLISHMENT.

"The Secretary of the Interior (referred to in this title as the 'Secretary') shall establish and carry out a program within the Department of the Interior to be known as Tribal Self-Governance (referred to in this title as 'Self-Governance') in accordance with this title.

"SEC. 402. SELECTION OF TRIBES.

"(a) CONTINUING PARTICIPATION.—Each tribe that is participating in the Tribal Self-Governance Demonstration Project at the Department of the Interior under title III on the date of enactment of this title shall thereafter participate in Self-Governance under this title and cease participation in the Tribal Self-Governance Demonstration Project under title III with respect to the Department of the Interior.

"(b) ADDITIONAL TRIBES.—In addition to those tribes participating in Self-Governance under subsection (a), the Secretary, acting through the Director of the Office of Self-Governance, may select up to 20 new tribes per year, from the applicant pool described in subsection (c), to participate in Self-Governance.

"(c) APPLICANT POOL.—The qualified applicant pool for Self-Governance shall consist of each tribe that—

"(1) successfully completes the planning phase described in subsection (d);

"(2) has requested participation in Self-Governance; and

"(3) has demonstrated, for the previous 3 fiscal years, financial stability and financial management capability as evidenced by the tribe having no material audit exceptions in the required annual audit of the self-determination contracts of the tribe.

"(d) PLANNING PHASE.—Each tribe seeking to begin participation in Self-Governance shall complete a planning phase in accordance with this subsection. The tribe shall be eligible for a grant to plan and negotiate participation in Self-Governance. The planning phase shall include—

"(1) legal and budgetary research; and

"(2) internal tribal government planning and organizational preparation.

"SEC. 403. FUNDING AGREEMENTS.

"(a) AUTHORIZATION.—The Secretary shall negotiate and enter into an annual written funding agreement with the governing body of each participating tribal government.

"(b) CONTENTS.—Each funding agreement shall—

"(1) authorize the tribe to plan, conduct, consolidate, and administer programs, services, functions, and activities administered by the Department of the Interior that are otherwise available to Indian tribes or Indians, including—

"(A) the Act of April 16, 1934 (popularly known as the 'Johnson-O'Malley Act') (48 Stat. 596, chapter 147; 25 U.S.C. 452 et seq.); and

"(B) the Act of November 2, 1921 (popularly known as the 'Snyder Act') (42 Stat. 208, chapter 115; 25 U.S.C. 13);

"(2) subject to the terms of the agreement, authorize the tribe to redesign programs, services, functions, or activities, and to reallocate funds for such programs, services, functions, or activities;

"(3) prohibit the inclusion of funds provided—

"(A) pursuant to the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.);

"(B) for elementary and secondary schools under the formula developed pursuant to section 1128 of the Education Amendments of 1978 (25 U.S.C. 2008); and

"(C) to the Flathead Agency Irrigation Division or the Flathead Agency Power Division, except that nothing in this section shall affect the contract authority of such divisions under section 102;

"(4) specify the services to be provided, the functions to be performed, and the responsibilities of the tribe and the Secretary pursuant to the agreement;

"(5) authorize the tribe and the Secretary to reallocate funds or modify budget allocations within any year, and specify the procedures to be used;

"(6) provide for retrocession of programs or portions of programs pursuant to section 105(e);

"(7) provide that, for the year for which, and to the extent to which, funding is provided to a tribe under this section, the tribe—

"(A) shall not be entitled to contract with the Secretary for such funds under section 102, except that such tribe shall be eligible for new programs on the same basis as other tribes; and

"(B) shall be responsible for the administration of programs, services, functions, and activities pursuant to agreements entered into under this section; and

"(8) prohibit the Secretary from waiving, modifying, or diminishing in any way the trust responsibility of the United States with respect to Indian tribes and individual Indians that exists under treaties, Executive orders, and other laws.

"(c) SUBMISSION FOR REVIEW.—Not later than 90 days before the proposed effective date of an agreement entered into under this section, the Secretary shall submit a copy of such agreement to—

"(1) each tribe that is served by the Agency that is serving the tribe that is a party to the funding agreement;

"(2) the Committee on Indian Affairs of the Senate; and

"(3) the Committee on Natural Resources of the House of Representatives.

"(d) PAYMENT.—

"(1) IN GENERAL.—At the request of the governing body of the tribe and under the terms of an agreement entered into under this section, the Secretary shall provide funding to the tribe to carry out the agreement.

"(2) AMOUNT.—Subject to paragraph (3) of this subsection and paragraphs (1) and (3) of subsection (b), the Secretary shall provide funds to the tribe for one or more programs, services, functions, or activities in an amount equal to the amount that the tribe would have been eligible to receive under contracts and grants under this Act, including direct program costs and indirect costs, and for any funds that are specifically or functionally related to the provision by the Secretary of services and benefits to the tribe and its members.

"(3) TRUST SERVICES.—Funds for trust services to individual Indians shall be available under an agreement entered into under this section only to the extent that the same services that would have been provided by the Secretary are provided to individual Indians by the tribe.

"(e) CIVIL ACTIONS.—

"(1) DEFINITION OF 'CONTRACT'.—Except as provided in paragraph (2), for the purposes of section 110, the term 'contract' shall include agreements entered into under this title.

"(2) PROFESSIONAL CONTRACTS.—For the period that an agreement entered into under this title is in effect, the provisions of section 2103 of the Revised Statutes of the United States (25 U.S.C. 81), and section 16 of the Act of June 18, 1934 (48 Stat. 987, chapter 576; 25 U.S.C. 476), shall not apply to attorney and other professional contracts by Indian tribal governments participating in Self-Governance under this title.

"(f) FACILITATION.—

"(1) INTERPRETATION.—Except as otherwise provided by law, the Secretary shall interpret each Federal law and regulation in a manner that will facilitate—

"(A) the inclusion of programs, services, functions, and activities in the agreements entered into under this section; and

"(B) the implementation of agreements entered into under this section.

"(2) WAIVER.—

"(A) REQUEST.—A tribe may submit a written request for a waiver to the Secretary identifying the regulation sought to be waived and the basis for the request.

"(B) DECISION.—Not later than 60 days after receipt by the Secretary of a written request by a tribe to waive application of a Federal regulation for an agreement entered into under this section, the Secretary shall either approve or deny the requested waiver in writing to the tribe. A denial may be made only upon a specific finding by the Secretary that identified language in the regulation may not be waived because such waiver is expressly prohibited by Federal law.

"(C) APPEAL.—Not later than 60 days after denial of a waiver request, the Secretary shall, at the request of a tribe, provide the tribe with a hearing on the record and opportunity for an appeal.

"SEC. 404. BUDGET REQUEST.

"The Secretary shall identify, in the annual budget request of the President to the Congress, any funds proposed to be included in Self-Governance.

"SEC. 405. REPORTS.

"(a) REQUIREMENT.—Not later than January 1 of each year after the date of enactment of this title, the Secretary shall submit to Congress a report regarding the administration of this title.

"(b) CONTENTS.—The report shall—

"(1) identify the relative costs and benefits of Self-Governance;

"(2) identify, with particularity, all funds that are specifically or functionally related to the provision by the Secretary of services and benefits to Self-Governance tribes and

their members, and the corresponding reductions in the Federal bureaucracy; and

"(3) include the separate views of the tribes.

"SEC. 406. EFFECT ON OTHER AGREEMENTS AND LAWS.

"Nothing in this title shall be construed to limit or reduce in any way the services, contracts, or funds that any other Indian tribe or tribal organization is eligible to receive under section 102 or any other applicable Federal law.

"SEC. 407. NEGOTIATED RULEMAKING.

"(a) IN GENERAL.—Not later than 90 days after the date of enactment of this title, at the request of a majority of the Indian tribes with agreements under this title, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5, United States Code, to negotiate and promulgate such regulations as are necessary to carry out this title.

"(b) COMMITTEE.—A negotiated rulemaking committee established pursuant to section 565 of title 5, United States Code, to carry out this section, shall have as it members only Federal and tribal government representatives, a majority of whom shall be representatives of Indian tribes with agreements under this title.

"(c) ADAPTATION OF PROCEDURES.—The Secretary shall adapt the negotiated rulemaking procedures to the unique context of Self-Governance and the government-to-government relationship between the United States and the Indian tribes.

"(d) EFFECT.—The lack of promulgated regulations shall not limit the effect of this title.

"SEC. 408. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as are necessary to carry out this title.".

SECTION-BY-SECTION ANALYSIS ON THE TRIBAL SELF-GOVERNANCE ACT OF 1993

SECTION 1—SHORT TITLE

This section sets forth the short title of the bill as the "Tribal Self-Governance Act of 1993"

SECTION 2—FINDINGS

This section sets forth certain findings of Congress related to the unique relationship between the United States Government and Indian tribal governments, to each tribe's inherent right of self-governance, and to the success of the Tribal Self-Governance Demonstration Project in improving and perpetuating that relationship by strengthening tribal control over Federal funding and program management intended to benefit Indians.

SECTION 3—DECLARATION OF POLICY

This section declares that the policy of this Act is to permanently establish Self-Governance within the Department of the Interior in order to accomplish certain goals set forth in this section. These include—

Improving the government-to-government relationship between the United States Government and Indian tribes;

Permitting each tribe to choose the extent of its participation in Self-Governance;

Having Self-Governance co-exist with other Indian Self-Determination Act arrangements with tribes;

Ensuring the perpetuation of the trust responsibility of the United States to Indian tribes and Indian individuals; and

Permitting an orderly transition from Federal domination of programs and services benefitting Indians to tribal authority and control over those benefits with an accompanying reduction in the Federal bureaucracy.

SECTION 4—TRIBAL SELF-GOVERNANCE

This section amends Public Law 93-638, the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), by adding at the end therof the following new "Title IV—Tribal Self-Governance".

TITLE IV—TRIBAL SELF-GOVERNANCE

Section 401. Establishment. This section establishes a permanent program within the Department of the Interior to be known as Tribal Self-Governance.

Section 402. Selection of Tribes.

(a) Continuing Participation. This subsection clarifies that Title IV governs the Department of the Interior's implementation of Self-Governance and Title III governs the Indian Health Service's implementation of Self-Governance.

(b) Additional Tribes. This subsection permits the Interior Department to increase the number of tribes permitted to participate in Self-Governance by up to twenty (20) additional new tribes per year. Interior may add new tribes only if they meet certain requirements set forth in subsection (c).

(c) Applicant Pool. This subsection sets forth the requirements for a tribe to be considered a qualified applicant to begin participation in Self-Governance. Such a tribe must have successfully completed a planning activity described in subsection (d), it must have requested to participate in Self-Governance, and its financial stability and financial management capability must be demonstrated by the tribe having for the past three fiscal years no material audit exceptions in the required annual audits of its self-determination contracts under Public Law 93-638. This subsection is virtually identical to provisions in Title III regarding qualifications for participation.

(d) Planning Phase. This subsection requires each tribe applying to begin participation in Self-Governance to complete a planning phase that includes legal and budgetary research and internal tribal government planning and organizational preparation. Each such tribe is eligible to receive a grant from the Department of the Interior to carry out planning and negotiation activities. This subsection is more specific than are comparable provisions in Title III regarding required planning activities.

Section 403. Funding Agreements.

(a) Authorization. This subsection directs the Interior Secretary to enter into written annual funding agreements with the governing body of each participating tribal government. This subsection is virtually identical to provisions in Title III.

(b) Contents. This subsection sets forth the authorities and general terms that each annual funding agreement must contain. This subsection is virtually identical to provisions in Title III. The authorities and terms of agreement include—

Tribal authority to plan, conduct, consolidate and administer Interior Department programs, services, functions, and activities available to Indian tribes and Indians, including but not limited to those authorized under the general authorization statutes known popularly as the Johnson O'Malley Act and the Snyder Act;

Tribal authority to redesign or reallocate Interior Department funds negotiated for programs, services, functions, and activities;

Consistent with Title III, Title IV excludes certain Indian education funds (Tribally Controlled Community Colleges and elementary and secondary school formula funds) and Interior irrigation funds (Flathead Agency Irrigation Division or Flathead Agency Power Division) from being included in a Self-Governance annual funding agreement;

The specific services to be provided, functions to be performed, and the responsibilities of the tribe and the Secretary under the agreement;

The authority of the tribe and the Interior Department to reallocate funds or modify budget allocations during the year under specific procedures;

Tribal authority to retrocede programs or portions of programs under procedures employed with Indian Self-Determination Act contracts under Public Law 93-638;

A prohibition against a participating tribe contracting for the same funds at the same time it has included those funds in a Self-Governance annual funding agreement;

An Interior Department assurance that a participating tribe is eligible for new programs, benefits, and funds on the same basis as are tribes not participating in Self-Governance;

A tribal assurance that it will be responsible for administering the programs, services, functions and activities pursuant to the annual funding agreement; and

A prohibition against the Secretary waiving, modifying, or diminishing in any way the trust responsibility of the United States to Indian tribes and Indian individuals.

(c) Submission for Review. This subsection requires the Interior Department to submit a copy of a participating tribe's Self-Governance compact and annual funding agreement entered into under this Title to each tribe directly served by the Bureau of Indian Affairs Agency Office directly serving the participating tribe, and to the House Committee on Natural Resources and the Senate Committee on Indian Affairs. This submission must be done ninety (90) days before the proposed effective date of the agreement. This subsection is virtually identical to provisions in Title III.

(d) Payment. This subsection requires the Interior Department to provide funding to the tribe as negotiated in the funding agreement. This provision is virtually identical to provisions in Title III. This subsection also requires the Secretary to provide the same level of funding from one or more programs, services, functions or activities as the tribe would have been eligible to receive under a Indian Self-Determination Act contracts and grants under Public Law 93-638. This provision is virtually identical to provisions in Title III. This subsection additionally requires the Secretary to provide funds specifically or functionally related to the Interior Department's provision of services and benefits to the tribe and its members. This provision is similar to comparable provisions in Title III, but clarifies the intent of Congress to include funds functionally as well as specifically related to the Department's provision of services and benefits. This subsection excludes from availability those funds providing trust services to individual Indians unless the participating tribe provides the same services to individual Indians that would have been provided by the Interior Department. This provision is virtually identical to provisions in Title III.

This subsection clarifies the requirement in existing law by emphasizing that the Interior Department negotiate into a tribe's annual funding agreement all funds and resources sought by the tribe which the federal government would have used to carry out its programs and operations if it had provided

services and benefits, either directly or through contracts, grants or other agreements, to the tribe or its members in lieu of a Self-Governance annual funding agreement. With respect to the Department of the Interior, this would include the funds and resources of the Bureau of Indian Affairs, the Bureau of Reclamation, the U.S. Fish & Wildlife Service, the Office of Policy Management and Budget, the National Park Service, the Bureau of Land Management, the Minerals Management Service, the U.S. Geological Service, the Office of Surface Mining and Enforcement, and the Bureau of Mines. This section also requires inclusion of those funds or resources that otherwise would have been spent or provided at the reservation or Indian community, area/regional, and national/central levels if the Secretary were carrying out the federal government's responsibilities to the tribe and its members in lieu of a Title IV agreement. This section also requires inclusion of those funds or resources which originate from or are appropriated to other federal agencies but which are transferred to the Secretary's administrative access or control through inter-agency agreements or other authority. Federal funds and resources covered by this section include those which do not appear on the Secretary's budget as a cost item or activity but are nonetheless used by the Secretary or are otherwise functionally related to the Secretary's capacity to carry out its responsibilities to the tribe or its members in lieu of an annual funding agreement.

(e) Civil Actions. This subsection provides the same legal relief to agreements entered into under Title IV as is provided for Indian Self-Determination Act contracts under Section 110 of Public Law 93-638. This provision is virtually identical to provisions in Title III. This subsection also exempts a participating tribe's professional contracts from the usual requirement of review and approval by the Secretary. This provision is virtually identical to provisions in Title III.

(f) Facilitation. This subsection requires the Interior Department to interpret federal laws and regulations in a way that facilitates including Interior programs, services, functions and activities in agreements negotiated under Title IV and in a way that facilitates the flexible implementation of these agreements. This provision is virtually identical provisions in Title III. This subsection also establishes procedures and standards to guide the Interior Department in approving or disapproving a participating tribe's request for waiver of the application of a federal regulation to an agreement under Title IV. This provision provides specific structure in comparison to the more general waiver authorities of Title III.

Section 404. Budget Request. This section directs the Indian Department to identify in its annual budget request submission to Congress the funds it proposes to include in Self-Governance agreements. This provision is virtually identical to provisions in title III.

Section 405. Reports. This section sets forth the requirement of an annual report to be filed with Congress by the Interior Department that analyzes the relative costs and benefits of Self-Governance, identifies all funds that are specifically or functionally related to the provision by the Secretary of services and benefits to participating tribes or their members, and identifies reductions in the federal bureaucracy corresponding to the amounts transferred to tribes with agreements under this title. The Interior Department is to include in the report the opportunity for the separate views of the participating tribes. This provision provides somewhat more specific structure to comparable report provisions in Title III.

Section 406. Effect on Other Agreements and Laws. This section declares that no one may accurately interpret title IV to limit or reduce in any way the services, Self-Determination Act contracts, or funds that any other Indian tribe or organization is eligible to receive under section 102 of Public Law 93-638 or other federal law. Section 110 of Public Law 93-638 provides a cause of action to any tribe or tribal organization harmed by violation of this section. This provision is virtually identical to provisions in Title III.

Section 407. Negotiated Rulemaking.

(a) In General. If a majority of the tribes with agreements under Title IV so request, this subsection requires the Secretary to use procedures under the Negotiated Rulemaking Act of 1990, as amended, Public Law 101-648, to begin the process of developing proposed regulations to carry out title IV. These procedures are generally designed to require a federal agency to negotiate with the interests most affected by rulemaking, in this case the participating tribes, in the process of developing proposed regulations subsequently published for public review and comment.

(b) Committee. This subsection requires the Interior Department to establish a negotiated rulemaking committee, a majority of whose members are representatives of participating tribes. The Committee would also include federal representatives. The Interior Department may also include representatives of tribes not participating in Self-Governance.

(c) Adaptation of Procedures. This subsection gives broad authority to the Interior Department to adapt the negotiated rulemaking procedures to the unique context of Self-Governance and the government-to-government relationship that the United States has with each participating tribe.

(d) Effect. This subsection clarifies that Title IV is effective on the date of enactment and is not limited in its effect by the absence of promulgated regulations.

Section 408. Authorization of Appropriations. This section provides a general authorization of such sums as are necessary to carry out Title IV.

[From the Federal Register, Oct. 28, 1993]

ENHANCING THE INTERGOVERNMENTAL PARTNERSHIP

(Presidential Documents—Executive Order 12875 of October 26, 1993)

The Federal Government is charged with protecting the health and safety, as well as promoting other national interests, of the American people. However, the cumulative effect of unfunded Federal mandates has increasingly strained the budgets of State, local, and tribal governments. In addition, the cost, complexity, and delay in applying for and receiving waivers from Federal requirements in appropriate cases have hindered State, local, and tribal governments from tailoring Federal programs to meet the specific or unique needs of their communities. These governments should have more flexibility to design solutions to the problems faced by citizens in this country without excessive micromanagement and unnecessary regulation from the Federal Government.

Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to reduce the imposition of unfunded mandates upon State, local, and tribal governments; to streamline the application process for and increase the availability of waivers to State, local, and tribal governments; and to establish regular and meaningful consultation and collaboration with State, local, and tribal governments on Federal matters that significantly or uniquely affect their communities, it is hereby ordered as follows:

Section 1. Reduction of Unfunded Mandates. (a) To the extent feasible and permitted by law, no executive department or agency ("agency") shall promulgate any regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless:

(1) funds necessary to pay the direct costs incurred by the State, local, or tribal government in complying with the mandate are provided by the Federal Government; or

(2) the agency, prior to the formal promulgation of regulations containing the proposed mandate, provides to the Director of the Office of Management and Budget a description of the extent of the agency's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, any written communications submitted to the agency by such units of government, and the agency's position supporting the need to issue the regulation containing the mandate.

(b) Each agency shall develop an effective process to permit elected officials and other representatives of State, local, and tribal governments to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.

Sec. 2. Increasing Flexibility for State and Local Waivers. (a) Each agency shall review its waiver application process and take appropriate steps to streamline that process.

(b) Each agency shall, to the extent practicable and permitted by law, consider any application by a State, local, or tribal government for a waiver of statutory or regulatory requirements in connection with any program administered by that agency with a general view toward increasing opportunities for utilizing flexible policy approaches at the State, local, and tribal level in cases in which the proposed waiver is consistent with the applicable Federal policy objectives and is otherwise appropriate.

(c) Each agency shall, to the fullest extent practicable and permitted by law, render a decision upon a complete application for a waiver within 120 days of receipt of such application by the agency. If the application for a waiver is not granted, the agency shall provide the applicant with timely written notice of the decision and the reasons therefor.

(d) This section applies only to statutory or regulatory requirements of the programs that are discretionary and subject to waiver by the agency.

Sec. 3. Responsibility for Agency Implementation. The Chief Operating Officer of each agency shall be responsible for ensuring the implementation of and compliance with this order.

Sec. 4. Executive Order No. 12866. This order shall supplement but not supersede the requirements contained in Executive Order No. 12865 ("Regulatory Planning and Review").

Sec. 5. Scope. (a) Executive agency means any authority of the United States that is an "agency" under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(10).

(b) Independent agencies are requested to comply with the provisions of this order.

Sec. 6. Judicial Review. This order is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 7. Effective Date. This order shall be effective 90 days after the date of this order.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 26, 1993.*

QUINAULT INDIAN NATION,
Taholah, WA, November 2, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Washington, DC.

DEAR SENATOR MCCAIN: I urge you to introduce and support prompt passage of Tribal Self-Governance permanent authorization legislation. The Quinault Indian Nation has been a participant in the Self-Governance Demonstration Project since the initial authorization in 1988 and is now entering the fourth Fiscal Year of implementation of our Self-Governance Compact. Our experience and progress under Self-Governance clearly has demonstrated the positive results of providing Tribal governments the management decision-making empowerment and administrative authority over Tribal programs, services and development.

The Quinault Nation believes the permanent Self-Governance legislation is the cornerstone statute in the development of comprehensive and real government-to-government relationships between Tribal governments and the United States. Although American Indian Tribes are addressed in the U.S. Constitution and our Treaties, Executive Orders and Acts of Congress clearly establish in law our rightful presence, we have struggled with political and economic pressures over the last two centuries by the dominant society to erode, diminish and even extinguish our cultures, languages, reservation land titles and rights to exist as legitimate, independent governments.

The sovereign status of Tribal governments is certainly not a new or radical idea, but is clearly embodied in American law. Chief Justice John Marshall in the 1832 Supreme Court decision of *Worcester* v. *Georgia* clearly stated the obvious:

"The Indian Nations had always been considered as distinct, independent political communities * * * and the settled doctrine of the law of nations is that a weaker power does not surrender its independence—its right to self-government—by associating with a stronger, and taking its protection."

Due to convenience and connivance, elements of American society have sought to redefine, subvert and twist the definition of Tribal governments and Tribal rights to our collective disadvantage. The Federal bureaucracy, predominantly through the Bureau of Indian Affairs and the Indian Health Service, have dominated, controlled and manipulated our lives and government operations to the point that American Indians are the most regulated peoples in America.

Other Federal Agencies have sought to redefine our presence to fit uniformity and convenience with labels such as organizations, corporations, associations, constituents or even vendors. On the other side of the definition game, the Office of Management and Budget generally rules that Tribal governments are not included in Congressional assistance legislation intended for the common "State and Local Units of Government and Trust Territories" designation. Through the Tribally driven Self-Governance legislation, Tribes and Congress are finally setting the record straight and forcing the bureaucracies to recognize our government status. We certainly expect this tension of a Federal bureaucracy predisposition to uniformity against the Tribal demand for clear recognition to continue on into the future. But the fundamental principle is established in the Tribal Self-Governance permanent legislation regarding our unique relationships with the United States and the individual Indian Tribes and our inherent right of Self-Governance.

Self-Governance has empowered the government of the Quinault Nation to determine priorities, allocate resources and manage our affairs with minimal Federal intrusion. We have consolidated and expanded education and social services to cost-effectively meet the needs of Tribal members according to their personal situation rather than a superimposed set of rules. Our Tribal justice system has been strengthened to ensure adequate protections and judicial services for our people as the legitimate concern of any government. Funds expended on our forests, fisheries and environment are now effectively coordinated for logical, comprehensive management. More Quinaults are employed now than ever before. More Quinaults are furthering their education and returning home to work for their people.

There is no doubt that Self-Governance has benefitted the Quinault Indian people on the Quinault reservation. We have problems, difficulties and challenges facing us that need to be addressed. But the decisions made on priorities and the determination of means and methods to address the future are being made by our people, here at home. Self-Governance is really the forerunner of the Clinton Administration's "Reinvent Government" plans to streamline the Federal bureaucracy and "Creating a Government that Works Better and Costs Less."

I am concerned, as I expressed at the Senate Committee on Indian Affairs Oversight Hearing on Self-Governance, that the law clearly direct the Federal bureaucracy to deal with our Tribal governments as independent, sovereign governments in the future. The new Indian Affairs foundation must be carefully, methodically and systematically built on the principle of sovereignty. The bureaucratic obstructions and resistance to change is well known as we've struggled to establish Self-Governance. The Clinton Administration will soon understand this Federal tenacity to maintain and expand power and control.

The Federal bureaucracy has two centuries of experience and an extensive arsenal of resources available to misinterpret, misunderstand and determine Congressional intent for its own interest. New Federal bureaucracies becoming involved in Self-Governance will employ their own tactics, traps and shallow reasoning to frustrate and subvert Self-Governance. The provisions for negotiated rulemaking in the permanent Self-Governance legislation must be unmistakably clear to a child's level of reasoning that the Federal bureaucracy is negotiating government-to-government, nation to nation.

We don't want Congress to micro-manage each Federal bureaucracy with thousands of pages of legislative directives to advance Self-Governance. Therefore, our government role in negotiations between governments needs to be crystal clear so even Federal lawmakers can comprehend this basic principle. Hopefully, we can creatively negotiate future rules and regulations to implement policies and procedures that finally make sense and support Tribal government realities.

The permanent Self-Governance legislation, as a cornerstone to a new Indian Affairs foundation of government-to-government relationships between individual Indian Tribes and the United States, is a beginning. There will be those detractors in the Congress, Courts and the public arena who will seek to diminish Tribal jurisdiction due to peripheral concerns such as gaming, water rights or the myriad special interest agendas employed against Tribes over the centuries. The Indian Affairs foundation, however, recognizes our rights and responsibilities as independent governments to exist and develop according to our Tribally-determined priorities. In the future, I envision that permanent Self-Governance will involve multiple Federal Departments and Agencies with negotiated agreements over multi-year periods. This permanent Self-Governance statute is a most important first step to an improved future.

I have stated many times to many audiences and forums my basic belief:

"No right is more sacred to a nation, to a people, than the right to freely determine its social, economic, political and cultural future without external interference. The fullest expression of this right occurs when a nation freely governs itself."

On behalf of the Quinault Indian Nation, I want to express our deep appreciation for the understanding, support and respect you have shown to Tribal governments in the development of Self-Governance. We strongly encourage immediate introduction and prompt passage of permanent Self-Governance legislation. We look forward to working together with Congress as we enter new frontiers in establishing meaningful government-to-government relationships between American Indian Tribes and the United States.

Sincerely,

JOSEPH B. DELACRUZ,
President.

JAMESTOWN S'KLALLAM TRIBE,
Sequim, WA, November 2, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Washington, DC.

Re permanent self-governance legislation.

DEAR SENATOR MCCAIN: I am writing on behalf of the Jamestown S'Klallam Tribe to express our strong support for passage of permanent Self-Governance legislation this Congressional session. As one of the first seven Tribes to negotiate a Compact of Self-Governance in FY1991, the Jamestown S'Klallam Tribe has operated in a highly dynamic political environment during the past three fiscal years. Our Tribe has experienced tremendous growth, opportunity, and change; and, many accomplishments have been achieved, both internally and on the national level. The goal of the Tribe has been to demonstrate that successful and effective Tribal Self-Governance is not only possible, but can serve as a model for future Federal Indian policy implementing the "government-to-government" relationship with all Tribal governments, if they so choose. As part of this Tribally-driven initiative, the Jamestown S'Klallam Tribe has made progressive change a reality.

SELF-GOVERNANCE AT THE TRIBAL LEVEL

At the Tribal level, this positive change is exemplified in numerous ways. The governing body and administrative staff now fully

understand the flexibility and opportunities available through Self-Governance. The Jamestown S'Klallam Tribal Council and Program Directors actively participate in prioritizing, planning and justifying program needs. An internal Tribal budget process has been developed and adopted by the Tribal Council. Tribal programs have been restructured to reflect specific activities and meet actual Tribal needs and priorities. An internal Executive Committee, established during the initial year of Self-Governance, has facilitated greater cooperation among departments. Finally, community awareness about Self-Governance has been enhanced by providing information through the Tribal newsletter, community events, and general membership meetings.

TRIBAL ORGANIZATIONAL CHANGES

The Jamestown S'Klallam Tribe recognizes that BIA or other Federal funding will never meet all the needs of the Tribe and the Tribal community. The Tribe never had the opportunity under P.L. 93-638 contracting to actually analyze true needs and budget according to Tribally-specific priorities. Additionally in the past, the shuffling of staff people and division of very diverse responsibilities, due to multiple contract requirements, often created inefficiencies in use of time and skills of particular individuals. Much energy was spent throughout the year with this "juggling" act in an attempt to utilize existing employees in the most effective and efficient manner with insufficient and restrictive funding under BIA 638 contracts.

The Self-Governance concept has provided the flexibility to restructure our programs to build and address Tribal priorities and needs. The Tribe views Self-Governance as a way in which funds can be used in the most effective and Tribally-specific manner possible without diminishing the United States' trust responsibility to Indian peoples and Tribes.

The Tribe has made several changes to the historical way in which funds were distributed to Tribal programs. The Tribe chose not to budget funds as specifically negotiated by line item, but rather re-design and shift funds according to priorities within those line items. General Budget Categories, or Departments, were developed, and Program Managers of each Department have been required to work with the Executive Director and Tribal Council in planning programs and setting priorities based on combined knowledge of needs. These major Tribal Departments include: (1) General Services, (2) Planning, (3) Social Services, (4) Economic Development, (5) Social & Health Services, and (6) Self-Governance implementation. The following information highlights key areas in which funding was reprogrammed to benefit more specific Tribal needs:

Education—Scholarships, Adult Education, and Adult Vocational Training were consolidated into one Education program under the Department of Social Services. Education is a high priority of the Tribe, and funds are budgeted for tuition and books for all educational purposes at the beginning of the fiscal year based on information supplied by the Tribe's Education/Employment Counselor. Additionally, the Tribe recognized the need for a full-time staff person to provide an effective educational assistance service to prospective Indian students. Additional funding was added to the Department of Social Service's budget during the initial year of Self-Governance to increase this position to full-time.

Cultural Enhancement & Restoration—Cultural enhancement, preservation, and restoration has never been available under BIA 93-638 funding. The Tribe's culture has struggled for survival due to conflicts with the non-Indian cultural values and systems. Due to lack of programmatic support, our efforts towards restoring and preserving traditional ways are key to community cultural survival. The tribal Council considers cultural enhancement a priority, allowing the Department of Social services to use Self-Governance funding to assist in meeting some cultural project expenses. Projects that were minimally assisted by Self-governance funds include a weekly children's program, the summer Culture Program, expenses for a Summer Open House, and supplies for basket weaving, drum-making, and woodcarving classes.

Housing—The Tribe historically has been provided approximately $32,000 to $38,000 per year through the BIA Housing Improvement Program (HIP). These funds have always been insufficient for construction of a new home, and the Tribe has been forced to delay new home construction one to two years in order for sufficient funds to accumulate for such a project. Under Self-governance, the Tribal Council has determined the need for re-programming additional funding into the Housing Program which more accurately addresses the unique conditions of our Tribal community.

Economic Development—In the past under P.L. 93-638 contracts, the Tribe did not receive funding for development of its economic base. Because the development of successful businesses to sustain Tribal Operations has always been key to future self-sufficiency, the Tribe budgeted additional funding to the Economic Development Department. This funding has complemented and enhanced existing business development activities being temporarily funded through the HHS's Administration for Native Americans (ANA).

Natural Resources Development—Historically, the Tribe has been funded primarily for harvest management and some initial development of acquaculture. Limited funding has never allowed the Tribe to expand this program. Under Self-Governance, the Tribe has been able to re-prioritize funding resources to the Natural Resources Department in order to encompass new resource areas, particularly in water resource and shellfish management. Water resource management activities include both protection of water quality affecting fish and shellfish habitat, and, the planning and restoration of water quantity in our traditional fishing rivers. Other enhancement options in the Tribe's primary area of fisheries could not be pursued in the past, but through Self-governance and other new funding sources, the Tribe has become involved in innovative projects to restore and protect critically depleted stocks of salmon in cooperation with Federal, State, and private enhancement initiatives.

Construction—With the new additions to staff and programs under Self-Governance, IHS, and other program/project resources, the need for expansion of Tribal administrative facilities remains critical. Under Self-governance, the Tribal Council passed a budget modification to refurbish an older building, that was purchased with Tribal funds, to accommodate additional Tribal social and health programs.

We firmly believe that our experiences under Self-Governance have provided the Jamestown S'Klallam Tribe the opportunity to exhibit its ability to enhance Tribal operations to make the "government-to-government" policy a meaningful relationship. We can now control and decide how to best utilize the Federal resources made available to our communities.

The key purpose of this proposed Self-Governance legislation is to establish a clear message to the Administration that the negotiated transfer of resources and allowing the Tribe to assume management responsibilities is sufficient evidence to justify making it a permanent option. In conclusion, it is time to set the foundation for which we will build or future. We believe in our vision and have moved forward in making the goals of Self-Governance a reality. We look forward to continuing to work with you and thank you again for your support.

Sincerely,

W. RON ALLEN,
Tribal Chairman/Executive Director.

PORT GAMBLE S'KLALLAM TRIBE,
Kingston, WA, October 26, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Committee on Indian Affairs, Washington, DC.

DEAR SENATOR MCCAIN: The Port Gamble S'Klallam Tribe is entering it's third year of implementation and experience under the Self-Governance Demonstration Project. As Congress considers permanent legislation to make this Self-Governance opportunity available to all tribal governments, I want you to be aware of the many positive developments for our Tribe through the budget and management empowerment of Self-Governance.

EDUCATION

Increased the funding of education from pre-compact levels of $41,000 to $100,000 enabling:

26 students to enroll in a pilot project sponsored by the Evergreen State College allowing participants to attend classes on the reservation while earning a Bachelor's Degree at the end of five years. This is enabling many tribal employees the only opportunity available to further their college education.

Provided new Education Clinic space for after-school tutoring of grade school, junior high and high school students.

Increased the ability of our new high school graduates to attend colleges and universities throughout the United States. (The Class of 1993 was the first S'Klallam class in history to complete high school without any dropouts).

ECONOMIC DEVELOPMENT

Established and funded the Port Gamble Development Authority to advance economic development. Major accomplishments:

Contracted the construction of a road on the reservation thereby retaining profits for the Tribe that otherwise would have gone to off-reservation businesses.

Contracted the remodeling of the Health Clinic, again retaining profits for Tribal use.

Constructed and leased back to the Tribe an office building with profits to be used for further economic development of the Tribe's Salish Business Park.

Currently assisting in the planning and research necessary to evaluate the entry of the Port Gamble S'Klallam Tribe into the gaming industry.

LAW ENFORCEMENT

Increased the Tribal Police Force to provide 24 hour coverage of the reservation.

COURTS

Employed a Probation Officer and a Tribal Attorney to provide our Tribal government with adequate Legal Services.

FORESTRY

Initiated a Tribally-funded Forest Intern Program and development of a comprehensive long-term Forestry plan designed to provide yearly income to the Tribe.

PUBLIC WORKS

Created a Utility Department funded jointly by user fees and Self-Governance funds. This new Department cleaned the reservation's water tanks which greatly improved overall water quality.

COMMUNITY SERVICES

Established the following improvements to the quality of life on the reservation:

Funded Senior, Youth and Adult recreation programs.

Established a Senior lunch and Activities program.

Built a new Park on the reservation and rehabilitated the Community Activities Building.

Provided Self-Governance funded Day Care Services for families in order to allow parents to seek employment or educational opportunities off the reservation.

CULTURE

Created a Heritage Department to preserve and maintain the Tribe's cultural, artistic and historical heritage in modern society.

TRIBAL GOVERNMENT

Improved Tribal Government management and administration processes as follows:

Created a new budget and reporting system to facilitate input from the community; allow the Council a better understanding of the financial status of the Tribe; and, provide Tribal Council priority-setting and allocation authority over the Tribal Budget.

Enhanced the involvement of the Tribal Council in Tribal affairs through an increased amount of funds available for travel on the Tribe's behalf.

Established a Youth Council to acquaint our younger people with the governmental functions of the Tribe and to foster a pride in the accomplishments of the Self-Governance process.

I feel that these accomplishments would not have occurred without Self-Governance. Our people are beginning to experience a better life, which, I trust, will extend many hundreds of years into the future.

Sincerely,

GERALD J. JONES,
Chairman.

DUCKWATER SHOSHONE TRIBE,
Duckwater, NV, October 29, 1993.

Hon. JOHN MCCAIN,
Vice-Chairman, Senate Committee on Indian Affairs, Washington, DC.

DEAR HONORABLE MCCAIN: The Duckwater Shoshone Tribe supports the Self-Governance Permanent Legislation in the Bill that is being submitted by Senator John McCain. Self-Governance is a fine program, it is a program that has helped our Tribe and has helped the other tribes that we have worked with during the demonstration stage. The program has allowed our Tribe to show that we can provide more services and better services to our community than can any federal agency. And it has allowed us to show that we will remain accountable to our people and to the United States as we operate our programs. It is time for Self-Governance to move past the demonstration trials to move into permanent program status, and to prepare for expanding it into the federal/tribal relationships in all federal departments.

In the Tribe's opinion, Self-Governance is better. It is an improvement over 638 and over federal services. Self-Governance gives the Tribe more freedom to concentrate resources on needs and plans and to make decisions and changes based on tribal priorities. Self-Governance makes decision making and accountability local, a situation that has both pluses and drawbacks.

Under Self-Governance, the Tribe has reduced its problems with the BIA. The Duckwater Shoshone Reservation has always been hard to get to so the BIA mostly hassled the Tribe from far away. BIA staff questioned or lost the Tribe's proposals, budgets, and reports. BIA staff questioned the Tribe's shared use of the equipment and the Tribe's administrative procedures. BIA staff forgot to tell tribal staff about meetings or forgot to send out new information. BIA staff delayed or simply did not forward the Tribe's requests or suggestions up through the system. Because of Self-Governance, the Tribe receives timely information. The Office of Self-Governance people try to help solve problems and Office of Self-Governance is able to get more cooperation from the Agency and Area staff than the Tribe ever could.

Under Self-Governance, the Tribe has increased its program and resource coordination. As an example, the Tribe increased coordination between the social service program, law enforcement, and the school on substance abuse prevention during its first Self-Governance budget planning and revision session. This and other budget changes improved program services and increased the efficient use of funding. And the Self-Governance authority to coordinate decreased our people's worries about monitoring hassles from the BIA.

For the first time, the Tribal Manager and Tribal Council worked on a comprehensive budget that covers all programs. Previous budgets were always focused on individual fund sources. This year was the first where the Tribe tried to develop a comprehensive budget for the staff and Council to understand and use. This has made it easier to focus on tribal programs and services rather than to just think about the fund sources.

Under Self-Governance, the Tribe has identified the need to improve its long range planning, its record keeping, and its internal policies and procedures. Before Self-Governance, long range tribal planning was sometimes as frustrating as it was rewarding. The Tribe would prepare its long range plan and often was able to reach its multi-year objectives. But the Tribe was unable to get the BIA or IHS to take the plans seriously. Federal staff would not help the Tribe to gain resources that it needed to carry out the plan. That changed under Self-Governance since the Tribe could make its own planning and operation decisions.

The Tribe has found a similar situation with its policies and procedures and its record keeping. The current policies and procedures were usually developed in response to a P.L. 93-638 or other federal program administrative requirement. Tribal staff paid attention to following the policies and procedures but did not spend a lot of time thinking about what the policies were really trying to address or how to improve the policies.

Now staff are discussing the fact that Self-Governance freedom brings the potential for severe and frequent changes. And staff are worried that severe changes could hurt rather than help local services. Staff are recommending that the Council prepare to review new and revised tribal administrative and operating policies, that the Council prepare for developing an administrative code that includes strong budget and personnel controls, and that new policies tie primarily to local processes and A-128 compliance.

The Tribe supports permanent status for the Self-Governance program and requests Congressional support for and passage of the McCain Bill. We strongly believe that tribes that seek the opportunity to operate their own programs will do a better job than will federal agencies. We strongly believe that tribes that want this responsibility should have this opportunity. The McCain Bill expands the opportunity and brings it to more tribes each year. We hope that all Congressional members will support this opportunity and will support the tribes that wish to take on this responsibility. Please contact me or my staff if you have any questions about our experience or our support for this program.

Sincerely,

BOYD GRAHAM,
Tribal Chairman.

SHOSHONE PAIUTE TRIBES,
Owyhee, NV, October 29, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: The Shoshone-Paiute Tribes of the Duck Valley Indian Reservation are participating in the Self Governance Demonstration Project as authorized by Congress.

The Shoshone-Paiute Tribes fully support permanent legislation for Self Governance. Self Governance is working in Indian Country including the Duck Valley Indian Reservation and this process should continue on a permanent basis. It would be very difficult for the Shoshone-Paiute Tribes to go back to doing business the "old way" with the Bureau of Indian Affairs. We, as Indian people, are taking a more active role in determining our own priorities, setting our own goals and accepting the consequences of our actions.

Since so much is at stake we have been more conscientious in providing for our own people's services, activities and functions which have improved our way of life and have given us much more pride in our achievements.

Under the Self Governance Demonstration Project the Tribes' membership have enjoyed an increase in employment, a decrease in welfare cases, we have been able to create more youth work programs, give our students more financial assistance in their higher education endeavors and fund more students in adult vocation training. Under the Self Governance Project the Tribes have gone from two people participating in the Forest Service Cooperative Agreements to at least 12 people, and over half of these people have become permanent employees of the Forest Service. We are able to keep our Tribal Courts open year round. We are able to provide for a full time employee for the Human Development Center. We are providing for funds to improve twice the amount of homes in the Housing Improvement Program.

We have been able to do more in the way of community development by installing street lights, completing paving projects, providing more assistance to the Senior Citizens. We no longer have to lay people off in the middle of the year and we can provide year round services in many other areas of natural resource development. There have been many other advantages to Self Governance we have only named a few and we have only just begun to benefit from this "new way" of doing business.

The Self-governance demonstration Project has proven to be a resounding success and should be permanently placed in the system along with allowing additional Tribes to participate. Thank you Senator McCain for your support.

Sincerely,

LINDSEY W. MANNING,
Tribal Chairman.

KAWERAK, INC.,
Nome, AK, October 29, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

Re support for permanent self-governance legislation.

DEAR SENATOR MCCAIN: I am writing on behalf of Kawerak, Inc., a tribal consortium consisting of 20 federally recognized tribes in the Bering Straits region of Alaska, and a current Self-Governance participant, to express our full support for the passage of the proposed "Tribal Self-Governance Act of 1993."

Kawerak began planning under the Self-Governance Demonstration Project (SGDP) in November, 1990. Our Compact was signed in late 1991, and we began to implement our first Annual Funding Agreement on January 1, 1992. In our view, passage of title III (creating the SGDP) ranks as one of the most important positive actions yet taken by Congress in the area of Indian affairs and policy. Its importance can perhaps only be overshadowed by passage of a permanent bill.

Kawerak would rate the SGDP as implemented thus far as an unqualified success. Although the Project continues to have its up and downs, periods of frustration and periods of excitement, for Kawerak and the 19 participating member tribes, the SGDP provides a considerably improved environment for meeting the needs of our respective tribal governments and individual tribal members. The basis for this improved environment is directly related to three key factors which are truly unique to the SGDP.

First is the ability to gather greater resources under the control of tribal leaders through the Annual Funding Agreement negotiation process; second is the flexibility to direct those resources to tribally determined needs and priorities, third is the programmatic and administrative flexibility associated with the Project. These are real and extremely significant changes and improvements from 638 contracting, and Kawerak is actively moving to take full advantage in all 3 areas. This statement is clearly illustrated by an examination of Kawerak's FY 93 budgets.

Excepting programs with earmarked funding, every singe FY 93 Kawerak program budget has been modified since the beginning of the fiscal year—many of the budgets more than once—through the internal budgeting process set up in response to the SGDP. The changes were made quickly, and efficiently. Had these changes been made under the old 638 contracting system, the time, effort and paperwork involved would have been tremendous. A process that used to take weeks or months has been reduced to minutes, hours or in some cases perhaps days. In short, because of the administrative and bureaucratic burdens imposed under the old system the changes simply would either not have occurred at all, or certainly would not have occurred at anything close to the same level that has occurred under the opportunities provided through the SG Project. It is clear that the Project goal of allowing tribal needs and priorities to be reflected by tribally determined budgets is occurring. Changes may not be dramatic in many cases, but there is no question that significant change is taking place.

Specific tribal budgetary actions worth noting include: (1) The movement of new and existing funds to create a tribal coordinator/manager program, to assure that every one of the 19 participating villages has at least a part-time administrative staff person to coordinate the governmental activities of their IRA/Traditional council; (2) The creation of a Tribal Employment Rights Office, or "TERO" program, made possible by using tribal funds in conjunction with other funding; (3) The addition of funds to a very underfunded subsistence advocacy and protection program; and (4) Subsidizing a Village Planning Assistance Program with tribal funds to allow it to continue for the purpose of training planner/grantwriters in each of our villages and providing direct grantwriting and planning services. Perhaps the key point at this time is not the specifics of the numbers themselves, or the specific actions taken, but the fact that the SG Project goal of providing maximum tribal budgeting flexibility is being realized. Kawerak is utilizing this flexibility at an ever increasing level resulting in improved and more efficiently provided services to tribal members.

In the area of administrative and programmatic flexibility, Kawerak has seen a significant reduction in processed paperwork and reporting. The goal of freeing program personnel from unnecessary administrative tasks, thereby allowing increased time for service delivery is being met. There is also a greater sense that the reporting that is done serves a more tangible benefit. That is, with limited exception, the only reporting that is now done is that which is aimed at and produced exclusively for Kawerak's Board of Directors. (Of course much if not all of this information is shared with the village councils and members as well.) All program directors are able to have a direct personal link with the individuals who are reading and responding to the reports that are produced. The production of extraneous information or forms is discouraged. The bottom line is that SGDP reporting regime has resulted in an increase or improvement in both accountability and service delivery. No longer do staff have the feeling that reports are produced for some vague or unknown reason, only to disappear into that mysterious "black hole" of the federal administrative bureaucracy. Kawerak is also pursuing program waivers in our HIP and General Assistance programs.

Another positive result of the SGDP is that Kawerak is now in a much different position than we used to be in with regards to the Bureau of Indian Affairs. Almost without exception we now call upon the BIA only when we truly need information, technical assistance or some other narrowly defined service. Most contacts are initiated by Kawerak. In the past, it seemed that Kawerak was much more in a position of responding or reacting to requests by the Bureau. This reversal of roles regarding contacts is a significant change. Essentially, the relationship seems to be shifting from one of tribes being led by the Bureau, to the much more desirable relationship of tribes leading the Bureau. The result of the reversal of roles is not that tribal dependence on, or the need for a continuing partnership with the Bureau is being eliminated, but that this partnership and dependence is taking on a much healthier nature. BIA is no longer the convenient scapegoat it has been in the past, nor is it a barrier. One would hope that this new relationship is viewed in the same positive light by the Bureau as it is by Kawerak.

The changes and improvements brought about by the SGDP are subjective as well as objective. The subjective changes may be harder to document, but are also clearly noticeable even after our first two years in the Project. Attitudes are changing in a positive way. The empowerment which takes place when a tribe fully participates under the SGDP is a potent force. The consequences will take time to be fully realized and appreciated, but these subjective attitudinal changes will continue to drive positive objective action. Tribal members are beginning to look to themselves and their own institutions for solutions, with the realization that there is real meaning and opportunity in doing so.

In summary, I would like to state that it is inconceivable to us that Self-Governance would not become a permanent option for tribes. In our view, the sooner the better. Self-Governance is the logical next step in the evolving federal-tribal relationship. We ask for your full support in passage of The "Tribal Self-Governance Act of 1993," and thank you for your efforts regarding this historic initiative.

Sincerely,

LORETTA BULLARD,
President.

SITKA TRIBE OF ALASKA,
Sitka, AK, October 29, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: The Sitka Tribe of Alaska, one of five Southeast Alaska tribes taking part in a self-governance demonstration project compact, endorses enactment of the proposed Tribal Self-Governance Act of 1993. The Act would authorize continued and increased self-governance activity, and would significantly improve the ability of the Sitka Tribe of Alaska to serve its citizens.

Our Tribe has been a signatory to the Southeast Alaska Self-Governance Compact for the past two years and has recently signed our third Annual Funding Agreement. We have experienced many positive results of participation in self-governance. The Sitka Tribe has received increased tribal funds as the Bureau of Indian Affairs bureaucracy has been reduced in our region; had the advantage of increased flexibility in redirecting funds toward economic development; and, have been able to increase and improve services to our members in the key areas of social services, education, and employment.

We join those many other tribes eager to have the demonstration project made permanent at the Interior Department and ask that you pass this bill into law before the end of the year. We support the fact that the scope of the bill has been limited to ensure that no controversial provisions delay quick enactment this year.

If there is anything more we can do to ensure this bill's passage, please let us know.

Sincerely,

TED A. WRIGHT,
General Manager.

CENTRAL COUNCIL, TLINGIT AND HAIDA INDIAN TRIBES OF ALASKA,
Juneau, AK, October 28, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: I am writing this letter on behalf of the Central Council of the Tlingit and Haida Indian Tribes of Alaska (Tlingit & Haida) in support passage of legislation that would make the self-governance program permanent.

Tlingit & Haida is a federally recognized tribe that has been involved in the self-governance movement since the beginning. Our programs play a very important part in the lives of many needy Natives in Southeast Alaska. Permanent legislation will stabilize this very important program so that there will be no question as to whether the program will be around in future years.

The positive aspects of our experience with self-governance are flexibility in funding and program design, the increase of the funding base, and the reduction of federal oversight and monitoring.

In conclusion, I ask your support for the passage of this very important legislation. The benefit to our tribal members will continue to increase with each passing year that this program is in existence. Any support you can give this program is very much appreciated.

Sincerely,

EDWARD K. THOMAS,
President.

TANANA CHIEFS CONFERENCE, INC.,
Fairbanks, AK, October 29, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: Tanana Chiefs Conference, Inc. (TCC) has recently entered into a Compact of Self-Governance with the Department of the Interior (DOI) concerning the Bureau of Indian Affairs (BIA) programs and projects we administer.

In the TCC region, Self-Governance is the key to achieving meaningful Tribal development. Self-Governance allows programs to be redesigned to better meet the needs of Tribes and Tribal members. As such, TCC is now able to offer, for the first time, an administrative position in each of our participating villages. The Tribal Administrators will handle the day to day operations of their Tribes and seek new opportunities to develop and enhance their Tribal governments.

Under Self-Governance, TCC will be responsive to the needs of our member Tribes rather than the bureaucratic whims of the BIA.

Self-Governance must be preserved. As such, the Tanana Chiefs Conference, Inc. supports your efforts to pass permanent Self-Governance legislation this session.

Sincerely,

WILL MAYO,
President.

LOWER ELWHA TRIBAL COUNCIL,
Port Angeles, WA, November 2, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN, I write to you today in support of your sponsorship of legislation which will amend Title III of the Indian Self Determination and Education Assistance Act, PL 93-638, and make the Self Governance Demonstration Project permanent. The Lower Elwha S'Klallam Tribe became a self governance tribe in 1993, after many years of experience in contracting under PL 93-638.

We have experienced many benefits under self governance, the foremost of which I can mention is the ability to design and fund tribal programs which we would not otherwise be able to offer our youth. As the Committee is well aware, the lure of drug and alcohol abuse among our young people is the greatest problem we face. Under self governance, we can support programs in cultural, educational and recreational activities, which we call Prevention Programs. These are highly successful in diverting children and adolescents from drug and alcohol abuse, while providing them educational enhancement, building pride in their tribal heritage, and developing and strengthening their minds and bodies. Without the flexibility of self governance reprogramming of tribal funds, we would be unable to provide these valuable programs for our young people. As well, we were able to provide financial support to our tribal day care program from self governance funds; we were able to do this only through reprogramming.

We thank the Committee for holding a hearing on this legislation October 20 and look forward to working with the Committee to further strengthen Tribal Self Governance.

Cordially yours,

BEVERLY J. BENNETT,
Chairperson.

ELY SHOSHONE TRIBE,
Ely, NE, November 2, 1993.

To: The Honorable John McCain, Vice-Chairman, Senate Committee on Indian Affairs.

From: Jerry Charles, Tribal Chairman, Ely Shoshone Tribe.

Subject: Permanent self-governance authority, Department of the Interior.

I wish to remark on Senator McCain's newly introduced legislation to apply permanent authority to the Tribal Self-Governance initiative of the Department of the Interior, now ending its 4th year as a demonstration project.

After concluding, I will ask for your support and co-sponsorship of this bi-partisan bill. It is difficult for me to imagine a more important piece of Native American legislation to come before the Congress the past 75 years.

I represent the Ely Shoshone Tribe, a small Western Shoshone tribe in the State of Nevada. When officials make speeches about the Self-Governance Demonstration Project, they generally include a line to the effect that Self-Governance funding ranges between Tribes receiving $530,000 to Tribes' receiving $10.2 million. We are the $530,000 Tribe.

But as the majority of tribes in this country are also small, I believe our experience may predict what theirs will be if Self-Governance is made permanent and extended to all.

Paticipation in the Tribal Self-Governance project has enabled my tribe to double its police protection for our community. It has enabled us to help our kids by expanding our educational services from a funding level of $5,600 to a funding level of $56,000. It has enabled us to relieve overcrowding in our homes by building room additions and bathrooms. None of this would have been possible were we not a part of the Self-Governance Demonstration Project.

The specifics are important, and I could spend a page listing them. But I want to ask something instead: do you remember, as a child, having to clear every decision you made, every penny you spent, with a parent, a teacher, another authority figure? This is how it has been with us vis-a-vis the Bureau of Indian Affairs.

This is the yoke Self-Governance removes. We now make local decisions about programs and spending levels that fit the values of our community. Furthermore, I believe we make and implement decisions far more efficiently and economically than the Federal bureaucracy ever did.

The tribally-initiated Self-Governance Demonstration Project has had the strong support of Congress and Presidents Reagan, Bush and Clinton. Whether the reasons for that support were couched in terms of "efficiency in government", "reduction of the federal bureaucracy", or "re-inventing government", we are grateful that the support has remained . . . on both sides of the aisle.

I ask you now for your support and cosponsorship of this bill. This measure returns the keystone of tribal government back to tribal government, returning those powers of self-governance which we exercised in America for thousands of years. It removes, once and for all, a big colonial yoke from around our collective neck, and enables us to take our place within the sovereign family of governments in this nation.

THE SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS,
Sault Ste. Marie, MI, November 3, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington DC.

DEAR SENATOR MCCAIN: The Sault Ste. Marie Tribe of Chippewa wholeheartedly supports the introduction to introduce permanent Self-Governance legislation. We believe the concept of Self-Governance is logical step towards achieving true tribal self-sufficiency.

The Tribal Self-Governance Program is a demonstration project authorized in 1988 by Congress. It was a concept originated by then Interior Assistant Secretary Ross Swimmer which establishes a direct funding relationship between tribes and the U.S. Government.

Currently, there are 30 tribes involved in the demonstration project in various states of development with 18 of these tribes having signed working "compacts" with the Department of Interior and the Indian Health Service.

In order to complete a compact a comprehensive planning process needs to take place at the tribal, agency, and area office levels. Essentially, all of the budgets pertaining to the participating tribe are analyzed and eventually a dollar amount is assigned in regards to direct dollars and administrative support given. Once all the programs have been analyzed in this manner, a total budgetary figure is arrived at. All parties are then convened at a negotiating session and a formal compact is then executed. The tribe then receives a "lump sum" amount of funds at the beginning of a fiscal year to cover all of designated programs. All Interior programs as well as all Indian Health Service Programs are eligible to be compacted with the exception of any "trust-responsibility" related functions.

Currently, no additional tribes are being accepted into the demonstration, however, the Sault Ste. Marie Tribe of Chippewa Indians supports the enact of legislation making the Self-Governance Program permanent.

Your assistance in this matter is greatly appreciated.

Sincerely,

BERNARD BOUSCHOR,
Tribal Chairman.

MILLE LACS BAND OF CHIPPEWA INDIANS, EXECUTIVE BRANCH OF TRIBAL GOVERNMENT,
Onamia, MN, November 1, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington DC.

DEAR SENATOR MCCAIN: First, I wish to extend my sincere appreciation to you for inviting me to testify on behalf of the Mille Lacs Band of Ojibwe at the October 20, 1993 hearing on the Self-Governance Demonstration Project. Second, I am writing to convey the Mille Lacs Band's strongest support for swift enactment of legislation making the Self-Governance Demonstration Project permanent.

At Mille Lacs, Self-Governance is the highest administrative priority for our tribal government. As a first-tier tribe, Mille Lacs is now in our sixth year of implementation of the demonstration project. We have found the project to be a tremendous success, and urge you to introduce and seek passage of permanent legislation as soon as possible.

Self-Governance is truly the "reinvention of government" for Indian tribes, because carried to its ultimate conclusion, the federal bureaucracy will reinvent itself to provide for tribal control and management over programs meant to benefit Indian tribes and people. As I noted at the hearing, Mille Lacs has determined that of every dollar appropriated by the Congress which should be the share benefiting the Mille Lacs Band, we have moved from accessing just eleven cents of each dollar in 1988 to over fifty cents of each dollar today in 1993. It is critical that other tribes across the United States have the opportunity, if at their option they choose, to participate in this project. But only through permanent legislation will that opportunity be created.

In addition, at some point the Congress will have to conclude the demonstration. In my opinion, it would not only be irresponsible, but criminal, if the Congress allowed the project to die and the clock were turned back to 1988 for the Mille Lacs Band and other tribes who have achieved so much success through self-governance.

On behalf of the Mille Lacs Band, I urge you to continue forward with permanent legislation. As you have observed the project over the last five years, your personal support for Self-Governance has been outstanding. We greatly appreciate the assistance which you and your fine staff have provided to Mille Lacs since 1988. If there is any way that the Mille Lacs Band can assist in this legislative effort, please do not hesitate to call upon me.

I may be reached at (612) 532-4181, along with Karen Ekstrom, Coordinator of Self-Governance at Mille Lacs. Or you may contact Emily Segar, of the Band's Washington Office, at (202) 543-8170. Thank you for you consideration and support.

Sincerely,

MARGE ANDERSON,
Chief Executive.

YAKUTAT NATIVE ASSOCIATION,
Yakutat, AK, November 1, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

DEAR HONORABLE MCCAIN: The Yakutat Native Association strongly supports quick enactment of the proposed Tribal Self-Governance Act of 1993. This bill would apply permanent authority to Self-Governance at the Department of the Interior and would increase the number of Tribes eligible to sign Compacts and Annual Funding Agreements with Interior.

Our Tribe has been a Signatory Tribe to the Southeast Alaska Tribes Self-Governance Compact for the past two years and recently signed our third annual funding agreement. Our Tribe has experienced many positive things as a result of our participation in Self-Governance.

In the near future we would also request to have our own individual Tribal Compact with the Office of Self-Governance. And request that language be included, to allow all Tribes the option to have their own compact in the future.

We have been able to increase the number of Tribal Staff, which provides more employment for our members. With the increased staff we are able to out reach to our clients better, improving the quality and amount of services we can provide to our clients.

We would like to see the demonstration project made permanent at the Interior Department and ask that you pass this bill into law before the end of the year.

Please let us know how we can support this bill getting into law this year.

Sincerely,

NELLIE VALE,
Executive Director.

MUCKLESHOOT INDIAN TRIBE,
Auburn, WA, November 1, 1993.

Senator JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Washington, DC.

DEAR SENATOR MCCAIN: The Muckleshoot Indian Tribe is writing to strongly endorse the introduction and swift passage of legislation to make permanent the Bureau of Indian Affair's Self-Governance program.

While the current 30-Tribe limit to the Self-Governance program precludes Muckleshoot's official entry into the program, our Tribe's planning efforts have been sanctioned by the Bureau of Indian Affairs, and we are actively pursuing becoming a Self-Governance Tribe.

The Muckleshoot Indian Tribe feels that legislation to authorize additional Self-Governance Tribes and make the program permanent is needed and justified. By treaty, Tribal governments have retained their inherent rights to self-govern and, as a matter of principle, should be afforded the opportunity to fully exercise that right under the BIA Self-Governance program. The current 30-Tribe limit is inconsistent with such principles and is a major inhibitor to Tribal growth and development.

Moreover, the Self-Governance program has proven to be a most cost-effective and streamlined means for ensuring maximum utilization of limited Federal resources. The Self-Governance program eliminates a number of the bureaucratic layers of the BIA by channeling Congressionally-appropriated funds more directly to Tribal governments at the local level. The efficiencies and cost-savings associated with the Self-Governance program are particularly relevant to the Congress's and the Administration's initiatives to enact savings by reducing Federal bureaucracies.

We wholeheartedly endorse and support the introduction and swift passage of legislation to make permanent the Bureau of Indian Affair's Self-Governance program. Your efforts and those of your colleagues in the Senate would be most welcomed and appreciated in this regard.

Sincerely,

VIRGINIA CROSS,
Chairman.

ABSENTEE SHAWNEE TRIBE OF OKLAHOMA,
Shawnee, OK, October 25, 1993.

Senator JOHN MCCAIN,
Senate Committee on Indian Affairs, Hart Senate Building, Washington, DC.

DEAR SENATOR MCCAIN: Please find enclosed the testimony of the Absentee Shawnee Tribe of Indians of Oklahoma expressing support and concurrence with a measure which would make Self Governance for Indian Tribes and Nations a permanent program.

This office was present during the Oversight Hearings conducted regarding this subject on October 20, 1993, and greatly appreciate your continuing support of this vital issue.

Should questions arise, or additional information be deemed necessary, please do not hesitate to contact this office.

Sincerely,

LARRY NUCKOLLS,
Governor,
Absentee Shawnee Tribe of Oklahoma.

OFFICE OF THE GOVERNOR,
THE CHICKASAW NATION,
Ada, OK, November 1, 1993.

Hon. JOHN MCCAIN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR MCCAIN: We understand that this week you will be introducing legislation in the Senate for permanent self-governance in relation to Indian tribal governments. We wholeheartedly endorse the concept of making self-governance a permanent program.

The Chickasaw Nation is now a self-governed tribe with its programs through the Bureau of Indian Affairs. Through self-governance, we have finally realized the potential that we have as an Indian nation. The direct input from our citizens has been phenomenal and the program has allowed us to exercise freedoms in meeting the needs of those we serve at a level that we have never before experienced. Tribal self-governance is a realization of an ideal that many Indian nations have had for more than a hundred years. It is indeed an idea whose time has come.

We encourage you to continue in your efforts and we express our willingness to work with you in the passage of legislation which will make the Self-Governance Program permanent.

Sincerely,

BILL ANOATUBBY,
Governor, the Chickasaw Nation.

LEECH LAKE TRIBAL COUNCIL,
Cass Lake, MN, November 1, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: The Leech Lake Band of Chippewa is a current participant in

the Public Law 93-638 Title III Self-Governance Demonstration Project. As a fourth tier tribe, fiscal year 1994 is our first year of operation under our Compact/Funding Agreement.

During the planning and negotiation phases in preparation for entering into this new way of doing business with the Federal government, we were constantly reminded that Title III, Self-Governance was a temporary, experimental demonstration. This attitude was present at all levels of the Bureau of Indian Affairs and hindered negotiations.

The Leech Lake Tribal Council supports your sponsoring and introducing legislation which will make Self-Governance compacting a permanent option for tribes. Such legislation is necessary to move the Self-Governance process forward and to remove any doubt that this tribally driven initiative is here to stay. We feel it is important that the legislation be completed by the end of the year.

Your sponsorship of this legislation, and your continuing efforts on behalf of American Indians, is greatly appreciated.

Sincerely,

ALFRED R. PEMBERTON,
Chairman.

CHEROKEE NATION,
Tahlequah, OK, October 29, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: It is my understanding that on November 3rd or 4th you intend to introduce a bill making Self-Governance permanent. I want you to know that you have my unqualified support in your effort to make the Self-Governance project a permanent program.

To many students of Indian affairs, Self-Governance represents a natural, even inevitable progression in modern federal Indian policy which began with the enactment of PL 93-638, the Indian Self-Determination and Education Act. Although I firmly believe that Self-Governance will continue building upon itself and eventually become the centerpiece of federal Indian policy, its impact and goals will be greatly facilitated with permanent legislation. As long as Self-Governance remains a "demonstration project," there is a real danger that the two federal agencies primarily involved in executing Congress' Indian policy will not take Self-Governance seriously.

Your draft bill would make Self-Governance permanent only with respect to the BIA. If I understand correctly, your reasoning is that including IHS in the bill will cause it to be referred out to various other committees, substantially diminishing the chances for enactment of the bill into law in 1994. I fully support your position and agree that, for the time being, IHS should be left out of the bill. However, I would request that you consider including a provision requiring IHS to submit a written plan for permanent implementation of Self-Governance within that agency. If this, too, would lead to referral out to other committees, strong language expressing congressional intent to make Self-Governance permanent within IHS should be included.

For the record, I want to identify some of the many positive effects Self-Governance has had on Cherokee Nation. These include:

Significant improvements in law enforcement and the tribal court system, including new criminal and juvenile codes, a multi-jurisdictional cooperative agreement with the State of Oklahoma and various political subdivisions, establishment of a civil and criminal trial court system, with two district judges, a court clerk and a tribal prosecutor.

Expansion of the Cherokee Nation Environmental Protection Agency's scope of activities and a dramatic improvement in its technical expertise. Under Self-Governance, for example, Cherokee Nation recently submitted an application for determination of adequacy of its solid waste disposal regulatory program under Subtitle D of RCRA.

A substantial increase and improvement in community development programs such as Construction, Environmental Health, Youth Services, Elderly Assistance, Community Involvement and Special Projects. Over 75 persons have been assigned to this area with specific responsibilities to extend the services of Cherokee Nation throughout its fourteen-county jurisdictional service area.

Cherokee Nation has not yet implemented its IHS Compact, but during FY 1994 the Nation's objectives include development of a health care benefit plan for all eligible users of Cherokee Nation health services, establishment of cooperative agreements with state agencies and private facilities, development of epidemiological data generation and analysis and an automated health management information network.

The improvements in tribal government and services were the direct result of the program and budget consolidation and the greater flexibility in allocation of financial resources made possible by Self-Governance under Title III. Compared to Self-Governance, contracting under PL 93-638 is at once cumbersome and rigid, and assumes a much higher level of federal oversight. In fact, as a consequence of Cherokee Nation's compact with the Interior, the entire Tahlequaqh Agency of BIA was eliminated and its former superintendent transferred to the Area Office as a Self-Governance Officer. Self-Governance has brought dramatic changes in tribal government and the Nation's ability to deliver comprehensive, high-quality social and health services to Indian country in northeastern Oklahoma. The time has come to make the Demonstration Project into a permanent federal program.

Sincerely,

WILMA P. MANKILLER,
Principal Chief.

SAC AND FOX NATION,
Stroud, OK, October 28, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: The Sac and Fox Nation has participated in the Self-Governance Demonstration Project since the fall of 1991. As a "Compact" tribe, the Nation has been provided with the flexibility to determine its own future whether it be in the area of funding or in the area of service provision to the people in our jurisdiction. Through the Demonstration Project, we have been provided the vehicle for which the Nation can operate in a true government to government relationship.

It is time for permanent Self-Governance legislation to be introduced and enacted. As sponsors of and participants in the recent working conference to draft the permanent legislation, we fully support the enactment of permanent legislation.

Your continued efforts in pursuing permanent legislation on behalf of the tribes is appreciated.

Sincerely,

ELMER MANATOWA,
Principal Chief.

ORGANIZED VILLAGE OF KAKE,
Kake, AK, November 1, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

Re permanent tribal self-governance legislation.

DEAR SENATOR: The Organized Village of Kake (OVK), as a Federally recognized Indian Tribe, strongly supports the speedy enactment of the proposed Tribal Self-Governance Act of 1993. This bill would apply permanent authority to Self-Governance at the Department of the Interior and would increase the number of Tribes eligible to sign Compacts and Annual Funding Agreements with Interior.

OVK has been a signatory to the Southeast Alaska Self-Governance Compact for the past two years and recently signed our third Annual Funding Agreement. OVK has experienced many positive benefits as a result of our participation in Self-Governance. We have realized the benefit of increased Tribal program funds as a result of our Compact reducing one layer of the Bureau of Indian Affairs (BIA) bureaucracy; thus, providing a significant enhancement to, and/or development of new, programs and services for our Tribal Membership. Specific examples include 1) targeting funds towards the economic development priorities of the Tribe as a result of increased flexibility; 2) responding to immediate Tribal needs through the ability of the IRA Council to authorize Tribal budget modifications; and 3) increased and improved services to our Membership in the key areas of education and social services.

OVK is eager to have the demonstration project made permanent at the Department of the Interior and ask that you pass this bill into law before the end of the year. We support the fact that the scope of the bill has been limited so that no controversial provisions will delay quick enactment this year.

In closing OVK wishes to thank the U.S. Senate Committee on Indian Affairs for the invitation to report our progress under Self-Governance at the October 20, 1993 Oversight Hearing. As we understand our concern, noted in our testimony, regarding our ability to move directly into a separate and independent Compact under permanent legislation is being addressed in the bill's report language to meet our needs.

Sincerely,

HENRICH B. KADAKE, Sr.,
IRA Council President.

LUMMI INDIAN BUSINESS COUNCIL,
Bellingham, WA, November 2, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

Re permanent self-governance legislation.

DEAR SENATOR MCCAIN: The Lummi Nation requests your continued support and assistance in the development of the Tribal Self-Governance Legislative Authorization as a permanent way for Tribes to conduct their business. The Lummi Nation has been a part of this historic tribally-driven initiative since it's inception. On October 27, 1987, our Tribal Chairman at that time, Larry Kinley, presented testimony before the House Interior Appropriations Subcommittee regarding

"Problems and Solutions in the Tribal-Federal Relationship." In that testimony the Lummi Nation stated:

"The basic issue confronting us today is a cumbersome, unwieldy bureaucracy built layer upon layer over the years being pressured by frustrated Tribal governments yearning for independence in the management of their affairs and seeking a larger share of resources allocated for their benefit.

"I truly believe that American Indian Tribes and Congress over the next several years should restructure the Federal service and resource delivery system to Indian Country to efficiently and effectively address the broad spectrum of Tribal government needs from those totally dependent Tribes to Tribes desiring true self-government. The process of change is always unsettling and painful, but the new system could still provide strong trust protection and allocate a greater share of existing resource expenditures to Tribes without drastically increasing government appropriations."

With the passage of permanent legislation, we can better realize the full potential of this initiative. Without Self-Governance, as a permanent option for Tribal governments, it is likely that the Federal bureaucracy would return to the "business as usual" relationship with Tribal Governments and tie Tribal entities to the constraints of the 98-638 contracting relationship. If, this initiative were to continue as simply another one time "experiment," these Tribally-proposed principles would not be taken seriously. The Demonstration Phase of the Self-Governance initiative is a living example of the Clinton/Gore's concept of reinventing Government. We have only scratched the surface of the creative and innovative possibilities for the restructuring operations of Tribal government and effective Tribal/U.S. relationships. The Lummi Nation supports and commends your efforts in moving forward with permanent legislation

The Lummi Nation has helped develop and evolve this initiative for over six (6) years. We are in our fourth year of implementation with our Compact of Self-Governance with the Department of the Interior and will begin to implement our Compact with the Indian Health Service on January 1, 1994. We have also coordinated and administered the Self-Governance Communication/Education project (since 1989), in coordination with the Jamestown S'Klallam, Quinault Indian Nation, and the Hoopa Valley Indian Tribe. In this short period of time, the Lummi Nation has realized a great deal of positive change due to Self-Governance.

TRIBAL COMMUNITY

Budget Ordinance: With the adoption of this ordinance, the Tribal community members are actively involved in the decision-making processes of their Tribal government. This has resulted in greater Tribal control and fiscal accountability of all programs and resources. In 1988, prior to Self-Governance, only 20% of our members voted; in 1993, 58% of our eligible voters participated in our General Elections.

TRIBAL GOVERNMENT

Lummi Indian Business Council: Restructuring of the Tribal Government has occurred to accommodate new responsibilities and authorities. The Council now meets weekly rather than monthly. For the first time in Lummi Nation history we have a full-time paid Tribal Chairman. The Council focus now is on planning for the future, in sharp contrast with the past of simply reacting to crisis situations.

Tribal Staff: A new awareness has occurred among Tribal Staff. They have become accountable to the people and to the Business Council rather than to an outside Federal entity and/or representative.

Priorities: The Business Council now establishes meaningful Tribal priorities and determines the resource allocations for those priorities. Tribal members are part of this decision-making process under the auspices of the Tribal Budget Ordinance.

TRIBAL PROGRAMS

Veteran Affairs Office: This office was created to service Veterans in meeting their social, educational, health, employment, and housing-related needs. The Lummi Nation has over 330 Lummi Veterans with unique and different needs than the general Lummi population. The Office was created in 1992 with Self-Governance monies. The program is recognized as a regional and national model Veterans program for Native Americans.

Culture: A new Department was established under Self-Governance. A new Ordinance is completed for the Protection of Cultural Resources, Burial and Archaeological Sites.

Education: The Johnson O'Malley program has expanded from servicing 370 students, to providing services to over 800 youth. Tribal School teacher salaries were supplemented to bring them closer to that of the Washington State teachers. Under our Scholarship program, funding has assisted over 80 students to further their education. We established a Youth Program to supplement educational services. This program has serviced over 350 youth.

Law & Order: A full-time criminal investigator has been employed. We have cleared the record of many pending cases. A new drug code has resulted in drug-related and criminal arrests.

Court: The staffing has stabilized and an accumulated backlog of cases have been reviewed, evaluated and processed. Tribal code revisions for Criminal, Traffic and Rules of Court are being updated.

Program Support: Support for the following programs: Safe Streets; Senior Citizens; Education Commission; Budget committee; and, our local volunteer Fire Department.

Business Assistance Center: This center, in coordination with the Northwest Indian College, provided technical assistance to 150 tribal members who own or operate small businesses.

EXTERNAL

Self-Governance Communication/Education: Since 1989, we have accomplished the following: conducted 21 workshops across the Nation, with participation of over 250 Tribes; made over 200 presentations; wrote, edited, published and distributed over 13,550 copies of publications on the Project, the Red Book and Workshop Manual; currently publish and distribute a national Self-Governance monthly newsletter, and, we have recently completed a one-half hour documentary video on Self-Governance.

With potential permanent legislative authorization of the Self-Governance Initiative, the Lummi Nation is excited and we look forward to the future with a new vision for our Tribal community. Our vision includes: the reaffirmation and re-establishment of the government-to-government relationship with the United States; to move forward towards greater self-sufficiency, the possibility of becoming a community that is proactive rather than reactive; and, the realization of a Tribal government that is accountable and responsible to the people we are here to serve. Through Self-Governance, these visions, ideas and hopes for the future can and have become realities. Our experiences have proven that through Self-Governance, positive change can occur within our Tribal community. We know what our problems are, but most importantly, we know what the solutions are and how they can best be implemented.

We understand the need to proceed at a steady, calculated pace in the development of Self-Governance as a permanent way of implementing our government-to-government relationship. Yet, it is very difficult to explain to our people why we are self-governing in some areas, but not in others. Why we can be flexible in meeting the needs with some funding, but still restricted with others. Let us not lose sight of the need to address the inclusion of the rest of the Federal system that provides services, activities and functions to Indians in the very near future. We envision a future in which the Tribal governments can comprehensively manage services and development according to Tribally-established priorities and Tribally-oriented guidelines.

We know that Self-Governance does not answer all of our Tribal problems and that Self-Governance may not be appropriate for all Indian Nations, but for the Lummi Nation, it is our road to the future. For the first time in over 100 years, we are beginning to determine our own successes and learn from our own failures.

Bill Clinton and Al Gore said it the best with regards to, "*Putting People First,*"

"We can no longer afford to pay more for—and get less from—our government. The answer for every problem cannot always be another program or more money. It is time to radically change the way government operates—to shift from top-down bureaucracy to entrepreneurial government that empowers citizens and communities to change our country from the bottom up. We must reward the people and ideas that work and get rid of those that don't work."

This is the Tribal Self-Governance Initiative—the empowerment of Tribal governments to improve the quality of life of the Tribal people in our Tribal communities. Your support of legislation in making this initiative permanent is encouraged. We appreciate and commend you and your many supportive efforts on behalf of Indian people.

Sincerely,

HENRY M. CAGEY,
Chairman, Lummi Indian Business Council.

SQUAXIN ISLAND TRIBE,
November 3, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: The Squaxin Island Indian Tribe urges the prompt introduction and passage of permanent Tribal Self-Governance authorization legislation. We are certainly encouraged and excited over the positive bi-partisan expressed support from Congress on the principles of Tribal Self-Governance. We envision this permanent legislative authorization as an important step in the careful and deliberate process of re-establishing meaningful government-to-government relationships between Tribal governments and the United States.

The Squaxin Island Tribe is probably the most recent Tribal government to officially enter the Self-Governance Demonstration Project as our negotiated Compact and Annual Funding Agreement with the Interior

Department was implemented on October 1, 1993. We are redesigning our Tribal government operations according to our unique Tribal situation, needs and plans. We are also establishing procedures to more effectively manage our expanded responsibilities and more efficiently administer government services to our people. The Tribal Self-Governance principles provide us with both challenges and opportunities to improve the quality of life for the Squaxin Island Tribal people today and the generations to come.

We are concerned that the entrenched Federal bureaucracy will be creating extremely difficult obstacles and hurdles in the Self-Governance path with their extensive arsenal of regulatory restrictions and policy requirements. Hopefully, the proposed "negotiated rule-making process" will clearly offer a constructive, creative and productive negotiation procedure to facilitate change and improvements in the management of Indian Affairs. We want to be afforded our rightful government status at the negotiation table with the real possibility to develop, in the spirit of cooperation, regulatory guidelines that reflect both Tribal goals and Congressional intent. Tribal governments have been entangled, manipulated and controlled by the dominant Federal system for over a century. There will certainly be a Federal inclination to cling to past practice and traditions. Tribal governments, however, want to concentrate on improvements for the future. This important permanent Self-Governance legislation should focus our attention on both the present and the future of our government operations. Clearly, the time for change is now.

We are heartened by the October 26, 1993 Presidential Executive Order 12875 on "Enhancing the Intergovernmental Partnership" and the reasoned National Performance Review recommendations on "Creating a Government That Works Better & Costs Less." President Clinton's Executive Order concludes for Tribal, State and local governments that:

These governments should have more flexibility to design solutions to the problems faced by citizens in this country without excessive micromanagement and unnecessary regulation from the Federal government.

The Squaxin Island Tribe certainly agrees with this Presidential premise. Self-Governance is a very historic initiative at a very critical time of change in the Federal system. We are indeed hopeful for a better future.

We truly appreciate the support from you and bipartisan Congressional members in making Self-Governance a reality for Indian Country. I urge that this cornerstone legislation for future Indian Affairs policy be passed as soon as possible so that, together, we can create meaningful government-to-government relationships.

Sincerely,

DAVE LOPEMAN,
Chairman.

THE CHIPPEWA CREE TRIBE OF THE ROCKY BOY'S RESERVATION,
Box Elder, MT, October 28, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

THE HONORABLE JOHN MCCAIN: The Chippewa Cree Tribe of the Rocky Boy's Reservation in North Central Montana would like to voice our support of the draft bill to apply permanent authority to the Interior Department Self-Governance Program.

Although we are in the infant stages of implementation the tribe has experienced many positive results already. The primary benefit of the Self-Governance program is the tribe's ability to prioritize for themselves programs they feel need funding. With education being our number our priority we have been able to fund fifty-nine more Higher Education and Adult Vocational Training students. This accomplishment alone will have a major impact on our education department. We have also been able to create a Natural Resources Department which we will finally have total control over. Water and Solid Waste programs have also been created and funded which will directly benefit every tribal member.

Lastly, the new attitude we are experiencing with tribal employees has been very positive. The new responsibilities for employees and the accountability of the tribal council has made everyone realize that we are now truly deciding for ourselves, our own future.

We totally support the permanent legislation proposed, and feel every tribe should be given the opportunity to participate if they choose.

Respectfully yours,

JOHN SUNCHILD, Sr.,
Chairman.

By Mr. METZENBAUM:

S. 1619. A bill to create the Insurance Regulatory Commission; to the Committee on Commerce, Science, and Transportation.

INSURANCE PROTECTION ACT OF 1993

• Mr. METZENBAUM. Mr. President, today I introduce the Insurance Protection Act of 1993.

Consumer confidence in the insurance industry is shattered. An atmosphere of trust has been replaced with one of suspicion and uncertainty. For the first time, consumers are beginning to question whether their insurance company will make good on its promise of financial protection. They fear that their company will be the next insolvency to make national headlines.

Consumers cannot ignore the fact that between 1981 and 1990 there were 98 life and health insurance company insolvencies and 241 property and casualty insolvencies. They cannot ignore that in 1991 alone, a number of multibillion-dollar life insurance companies, most notably Executive Life of California, First Capital Life Insurance Co., and Mutual Benefit Life Insurance Co., were taken over by State regulators.

Consumers also question the ability of State insurance regulators to effectively regulate the over 8,000 insurance companies doing business in the United States. Most States, due to limited funds, staff, and other resources, are severely lacking in their ability to monitor the financial solvency of insurance companies. In many instances, regulators have not demonstrated a strong will to take timely, appropriate, and decisive action.

Determined to take matters into their own hands, some consumers have made runs on their insurance companies. Reminiscent of the runs on banks in the 1930's, several recent large insolvencies were precipitated by runs on the insurance company after State regulatory action was delayed, stalled, or otherwise ineffective. Consumers, increasingly aware of an insurance company's deteriorating financial condition and regulators' inability to do anything about it, have chosen to take their money and run, rather than take a chance on the possible financial failure of their company.

To compound the problem, some States have strong insurance laws, while others have weaker laws. The variations occur in critical areas such as capital requirements, licensing, loss reserves, and other solvency issues. The National Association of Insurance Commissions [NAIC], for all its efforts, has not been successful in bringing uniformity to State insurance laws or solvency standards.

It is because of these problems and others that I introduce the Insurance Protection Act of 1993. There is an urgent need to restore consumer confidence in the insurance industry. With assets over $1.5 trillion and annual insurance premiums over $500 billion, we cannot stand on the sidelines and watch one of our Nation's largest financial systems deteriorate.

The Insurance Protection Act of 1993 creates a Federal agency, to be known as the Insurance Regulatory Commission [Commission]. Among other things, the Commission will set standards for State accreditation and for consumer disclosure of insurance information. Most importantly, the Commission will set national solvency standards, including capital and surplus requirements. This agency, similar in structure to the Securities and Exchange Commission, would not supersede State regulation but would establish specific solvency standards in areas where uniformity and Federal oversight are needed. State insurance departments would be required, as part of their accreditation, to implement the standards established by the Commission, and under Federal direction and oversight, would continue to be responsible for the day-to-day regulation of insurance companies.

The Insurance Protection Act of 1993 also establishes the Office of Reinsurance Regulation for the sole purpose of regulating the 3,500-plus reinsurance companies, both foreign and domestic, doing business in the United States.

Reinsurance regulation has fallen through the regulatory cracks. No one is consistently, comprehensively, or uniformly keeping a regulatory eye on the operations of reinsurance companies doing business in the United States. Some reinsurance contracts are nothing more than financial shams designed to puffup an insurance company's balance sheets with phony or inflated assets. To add to this regulatory nightmare, the more than 2,200 offshore, unlicensed reinsurers located in

over 100 jurisdictions are virtually unregulated, yet they handle tens of millions of dollars of policyholders' hard-earned premium money.

Title III of the Insurance Protection Act of 1993 requires all reinsurers to meet and maintain certain prescribed financial solvency standards established by the Commission and in some cases, to establish a trust account in a qualified financial institution before the reinsurer can obtain a license to conduct the business of reinsurance in the United States.

Title IV of the bill creates the National Insurance Guaranty Corporation [Corporation]. The mission of that Corporation is to provide equitable and uniform guaranty fund protection to all policyholders no matter where they live.

Last year's Senate Subcommittee on Antitrust, Monopolies and Business Rights hearing on guaranty funds found that the so-called safety net that is supposed to protect consumers when their insurance company fails is riddled with holes. For example, a GAO study found that State life/health guaranty funds are not uniform in the protection they provide. They differ in who is protected, what policies are covered, and how much the funds will pay in benefits and policy claims. In an insolvency of a multistate insurer, these differences can result in unequal treatment of policyholders of the same failed insurer; some may have no protection at all. There is also concern as to whether the funds have sufficient capacity to handle the failure of one or more large insurers. The establishment of a national guaranty fund program is paramount to restoring consumer confidence in the safety net.

Title V of the bill establishes a Federal liquidation program. This is done to assist the Corporation in finding and liquidating all assets, no matter where they are located, belonging to the defunct insurance company. No more fights over assets belonging to the insolvent insurance company. No more hammering out agreements as to how a multistate liquidation will be handled. A national liquidation program will better insure that consumer and creditor claims will be paid as fully and as quickly as possible.

The bill also contains a title that makes insurance fraud a Federal offense. Title VI of the bill recognizes that in order to stop insurance fraud by insiders, you must go after the executives, directors, officers, agents, and others who participate in fraudulent schemes, loot insurance companies, and leave consumers holding an empty bag. Specifically, title VI would: First, make it a Federal crime to knowingly file fraudulent financial statements with a State insurance regulator; second, ban embezzlement and theft from an insurance company; third, prohibit the falsification of insurance records with the intent to defraud; and fourth, outlaw the criminal obstruction of proceedings before State insurance authorities.

In the words of Insurance Commissioner Tim Ryles as reported in the Journal of Commerce on November 2, 1992:

Insurance fraud is on the rise because the fraud artists are moving away from securities and the Savings and Loans and into insurance which has always been loosely regulated.

Title VI will provide new tools for law enforcement authorities to deal with white collar crime in the insurance industry.

Mr. President, I introduce the Insurance Protection Act of 1993, because I, like many of my distinguished colleagues, am concerned about the financial future of our insurance industry and the financial security of insurance policyholders. We cannot afford to close our eyes to the critical financial problems that plague the industry, or refuse to hear the woes of consumers who are not getting what they were promised. Time is of the essence. We must act now before we are left with another financial mess to clean up.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

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

THE INSURANCE PROTECTION ACT OF 1993—SUMMARY

Consumer confidence in the insurance industry is shattered. An atmosphere of trust has been replaced with one of suspicion and uncertainty. For the first time, consumers are beginning to question whether their insurance company will make good on its promise of financial protection. Consumers fear that their company will be the next insolvency to make national headlines. Consumers also question the ability of state insurance regulators to effectively regulate the 8,000 insurance companies doing business in the United States.

Most states, due to limited funds, staff, and other resources, are severely lacking in their ability to monitor the financial solvency of companies. In many instances, regulators have not demonstrated a strong will to take timely, appropriate and decisive action. To compound the problem, some states have strong insurance laws, while others have weaker laws. The variations occur in critical areas such as capital requirements, licensing, loss reserves and other solvency issues.

It is because of these problems and others that the "Insurance Protection Act of 1993" is introduced. There is an urgent need to restore consumer confidence in the insurance industry. With assets over $1.5 trillion and annual insurance premiums over $500 billion, we can not stand on the sidelines and watch one of our nation's largest financial systems deteriorate.

TITLE I—INSURANCE REGULATORY COMMISSION

Establishes an independent agency, the Insurance Regulatory Commission ("Commission"), with five members appointed by the President with the advice and consent of the Senate. The Commission would accredit states based on the state's adoption and implementation of federal standards. An accredited state would be authorized to issue interstate insurance licenses to companies domiciled in the state and would be responsible for the day-to-day regulation of those companies. The Commission would periodically review the accreditation of each state and examine individual insurance companies in order to monitor compliance with the standards promulgated and determine the effectiveness of a state's regulation.

TITLE II—FEDERAL MINIMUM STANDARDS

The Commission will set the national standards in areas critical to the solvency of insurance companies operating in the United States. This includes setting federal standards for: state insurance department resources; capital and surplus requirements; the valuation of real estate and other assets; the use of surplus notes; and credit for reinsurance. The Commission would also set limitations on the involuntary transfer of insurance policies, require meaningful consumer disclosure of policy information, and establish standards for the simplification and, where appropriate, the standardization of insurance policies.

With respect to consumer disclosure, the Commission would prescribe the type of information that must be provided by the insurer to the consumer prior to the purchase of any insurance policy. Such information must be conveyed in a manner that will allow the consumer to make meaningful cost and coverage comparisons of similar policies offered by other insurers and of different policies offered by the same insurer.

An "Insurance Advisory Committee" would be established to investigate and study issues and problems relating to the federal regulation of insurance. The Advisory Committee's findings and any recommendations for legislative or administrative action shall be submitted to the President, the Congress, and the Commission.

TITLE III—REINSURANCE

The "Office of Reinsurance Regulation" is established within the Commission. This office would have the authority to grant or revoke licenses to professional reinsurers and other reinsurers seeking to transact the business of reinsurance in the United States. Implementing standards adopted by the Commission, the Reinsurance Office would be responsible for regulating both domestic and foreign reinsurers. All reinsurers will be required to meet and maintain certain prescribed financial solvency standards and where appropriate, establish a trust account in a qualified financial institution.

TITLE IV—NATIONAL INSURANCE GUARANTY CORPORATION

The bill establishes the "National Insurance Guaranty Corporation" ("Corporation"), comprised of seven members: the five members of the Commission, the Secretary of Treasury, and the Comptroller of the Currency. The Corporation would provide equitable and uniform guaranty fund protection to all policyholders of member insurers operating in interstate commerce.

TITLE V—LIQUIDATION OF MEMBER INSURERS

The Corporation would serve as the national liquidator of member insolvent insurers operating in interstate commerce.

TITLE VI—CRIMINAL AND CIVIL PENALTIES

Insurance fraud would be a federal offense. Specifically the bill would: (1) make it a federal crime to knowingly file fraudulent financial statements with a state insurance regulator; (2) prohibit embezzlement and

theft from an insurance company; (3) prohibit the falsification of insurance records with the intent to defraud; and (4) outlaw the criminal obstruction of proceedings before state insurance regulators.●

By Mr. BREAUX:

S. 1622. A bill to amend the Internal Revenue Code of 1986 to treat geological, geophysical, and surface casing costs like intangible drilling and development costs, and for other purposes; to the Committee on Finance.

DRILLING COSTS LEGISLATION

● Mr. BREAUX. Mr. President, I rise to introduce legislation vitally important to strengthening the energy security of the United States. This legislation would also lead to greater technological advancements.

One very important fact about the domestic oil and gas industry that is too often overlooked, is that it is an extremely high-technology industry, particularly now that reserves are harder to recover, exploring and producing these remaining reserves requires very sophisticated technology. Some of the most sophisticated technology used in any industry, even more sophisticated than that used in the air and space industry, is the use by the oil and gas industry of 3-D seismic technology. The basic purpose of these tools are to survey and interpret subsurface geology.

Obviously, this very sophisticated technology is extremely costly. Currently, this kind of technology is the most economically viable for the major oil and gas producers. Independent oil and gas producers, who produce 31 percent of domestic crude oil and about 6 percent of domestic natural gas production, need greater financial access to this type of equipment.

Therefore, this legislation that I am introducing today would allow oil and gas producers that incur geological and geophysical [G&G] costs to expense those costs rather than capitalize those costs.

I understand the administration is also considering supporting a similar initiative on which I hope to work with them.●

By Mr. LEAHY:

S. 1623. A bill to require the Secretary of Agriculture to carry out procedures for debarment of persons engaged in nonprocurement programs and activities with the Department of Agriculture who have violated the regulations of a program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

USDA DEBARMENT ACT OF 1993

● Mr. LEAHY. Mr. President, today I speak about a problem that, believe it or not, has a solution. The problem is cheating on Government contracts, bid-rigging, price fixing—whatever you want to call it—I call it breaking the law. The bill I am introducing today, the USDA Debarment Act of 1993, sends the message that we have had it with corporations cheating the Government and American taxpayers.

If a corporation or individual cheats on a Federal contract, rigs bids, fixes prices, or violates regulations—the taxpayer can get stuck with the tab.

The solution is simple. If a corporation or individual breaks the rules, they should be punished. The punishment needs to be so stiff that rich corporations will take notice.

Fines are not enough. Government programs are sometimes so lucrative that even if corporations get caught, the corporations are willing to pay the fine as a cost of doing business. I have had enough. We need to throw out the rule breakers, terminate their contracts, and bar them from doing business with the Government.

For too long the Department of Agriculture has failed to maintain a coherent and consistent policy for weeding out those companies convicted of breaking laws or abusing or violating the regulations of the very USDA programs in which they participate.

Last year I worked to pass legislation to stop infant formula companies from price fixing. This year I am pushing to pass legislation to end price fixing in the School Lunch Program. I want to make sure that the same rules apply broadly to the Department. We must be sure that the integrity of the billions committed in the agricultural export programs, which were misused to provide nearly $2 billion in foreign aid to Iraq, is protected.

Seven years ago President Reagan issued an Executive order on debarment, intended to affect all executive agencies and departments. The Executive order established procedures for debarment, and established the principle that a company debarred at one agency should be debarred from other agencies' programs. According to the New York Times, USDA is the only executive department to not comply with this Executive order.

Secretary Espy has requested that USDA move to come into compliance with this order, but a meeting with OMB to work out the order's application to USDA has not yet taken place.

I am introducing this legislation to send a clear signal to the Department of Agriculture that it must develop and implement debarment policy consistent with the OMB rule. My legislation will require the Department of Agriculture to establish a uniform procedure for debarring companies which have broken laws, violated regulations in connection with the programs in which they participate, or have violated Federal or State laws which seriously compromise the regulation of the affected program. My bill also requires the Secretary to implement those portions of President Reagan's Executive order which do not conflict with this act.

This is not only the right thing to do, it is the only sensible thing to do. Let's get it done.

In Vermont there is an old saying, "First time shame on you, second time shame on me."

I insist that USDA apply this simple truth to protect the taxpayers and the integrity of its programs.●

By Mr. STEVENS (for himself and Mr. PRYOR):

S. 1624. A bill to standardize withdrawal options for Thrift Savings Plan participants, and for other purposes; to the Committee on Governmental Affairs.

THRIFT SAVINGS PLAN LEGISLATION

Mr. STEVENS. Mr. President, today I am introducing legislation to standardize the withdrawal options available to Federal employees departing Federal service who participate in the Thrift Savings Plan. This proposal would result in administrative savings to the plan and additional benefits for some employees. I am particularly pleased that my colleague on the Subcommittee on Federal Services, Post Office, and Civil Service—Chairman DAVID PRYOR—has agreed to cosponsor this bill.

When the Thrift Savings Plan was created as part of the Federal Employees' Retirement System Act of 1986, a provision required that employees who leave Federal service before they reach retirement age must transfer the funds in their Thrift Savings Plan accounts to an independent retirement arrangement [IRA] or an eligible retirement plan. Last year, Congress allowed Federal employees separated in a reduction-in-force who are not eligible for an immediate annuity to leave their contributions in the plan until retirement.

This bill will give all participants the same choices when they leave Federal service: First, leave their funds in the plan where they continue to earn but cannot continue to contribute; second, have their account balances transferred to an IRA or other eligible retirement plan; third, have the Thrift Savings Plan purchase annuities for them; or fourth, withdraw the funds in their account subject to the automatic 20-percent tax withholding.

Mr. President, I was the principal author of the legislation which resulted in the creation of the Thrift Savings Plan. I am very proud of the success and wide acceptance of that retirement benefit—over 72 percent of all employees covered by the Federal Employees' Retirement System [FERS] contribute to their Thrift Savings Plan accounts. I believe that the time has come to allow all participants the full range of options when they leave Federal service, whether that is the result of their retirement or they simply decide to accept challenges outside of the Federal Government.

During a recent hearing before the Governmental Affairs Committee, I

took the opportunity to ask the representatives of the Federal Retirement Thrift Investment Board to comment on the feasibility and desirability of this change. The Executive Director of that independent agency, Francis X. Cavanaugh, recently responded that they support the extension of all options to all participants. I ask unanimous consent that the text of Mr. Cavanaugh's letter be inserted in the RECORD immediately following my remarks.

Mr. President, this is a win-win proposal. It provides additional benefits to some Federal employees—at no cost to the Federal Government—while at the same time streamlining the withdrawal process and reducing the cost of administering the Thrift Savings Plan. I urge my colleagues to favorably consider this legislation.

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

FEDERAL RETIREMENT
THRIFT INVESTMENT BOARD,
Washington, DC, October 20, 1993.

Hon. TED STEVENS,
Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR STEVENS: I am pleased to express our support for the extension of Thrift Savings Plan (TSP) benefits authorized under P.L. 102-484 to all TSP participants. Such a change would provide all TSP participants with the withdrawal options that are now available only to those who are eligible for immediate retirement benefits or, under P.L. 102-484, separated due to a reduction in force.

Under this approach all separating employees would be granted the same full range of withdrawal options: (1) to have the TSP transfer their account balances to an Individual Retirement Arrangement (IRA) or other eligible retirement plan, (2) to have the TSP purchase annuities for them, (3) to receive their account balances in a single payment or a series of equal payments, or (4) to retain their accounts with the TSP.

Standardizing withdrawal options would greatly simplify the TSP withdrawal program and reduce administrative costs. It would permit less complicated forms and other communications materials as well as more timely processing of withdrawal requests.

I look forward to assisting the Committee in furthering this proposal.

Sincerely,

FRANCIS X. CAVANAUGH,
Executive Director.

By Mr. BROWN (for himself and Mr. MOYNIHAN):

S. 1625. A bill to prohibit the sale of defense articles and defense services to countries that participate in the secondary and tertiary boycott of Israel; to the Committee on Foreign Relations.

ANTI-ECONOMIC DISCRIMINATION ACT OF 1993

• Mr. BROWN. Mr. President, I rise today to introduce the Anti-Economic Discrimination Act of 1993. I am pleased to be joined in this effort by my good friend, the chairman of the Near East and South Asia Subcommittee of the Foreign Relations Committee, Senator MOYNIHAN.

On September 27, shortly after the signing of the Israeli-PLO accord, the Washington Times reported that Syria was urging Arab nations to tighten their 40-year boycott of Israel. The boycott bars all direct dealings with Israeli companies, and also blacklists non-Israeli companies who do business with Israel. These blacklists directly effect American companies hoping to do business with Israel and with Arab States.

On October 1, the Washington Post picked up the refrain when it reported that moderate Arab States had not responded to Secretary Christopher's call for confidence-building measures including lifting the economic boycott against Israel. I ask that these two articles be reprinted at the conclusion of my remarks.

The economic boycott presents not only a significant impediment to the development of economies in the Middle East, in the end, it will slow the growing momentum toward peace. Even worse, with a secondary and tertiary boycott in effect, American companies with direct interests in the region are prevented from acting as a bridge between the two antagonists.

During hearings in our subcommittee 2 weeks ago, we were told by Assistant Secretary Djerejian that substantial progress had been made toward ending the secondary and tertiary boycotts of United States companies by countries attempting to enforce a boycott against Israel.

However, the Office of Antiboycott Compliance at the Department of Commerce tracks the number of Arab letters sent to United States companies every quarter. Between July 1 and September 30, 1993, Saudi companies sent 314 letters to American companies. That is the highest number of boycott letters to United States companies in 6 years. Kuwaiti companies sent United States companies 31 letters in the last quarter—only 6 less than the previous quarter. Despite State Department optimism, progress appears nonexistent.

The bill that Senator MOYNIHAN and I are introducing today attempts to bring an end to this egregious practice by preventing the sale of defense articles or services to countries who engage in boycott practices. The bill permits the President to invoke a 1-year waiver for national interest or national security reasons, and also permits 12-month extensions of the waiver if so determined by the President.

It is my hope that many colleagues will join us in this effort, and that by so doing, the United States will send a clear signal that peace and prosperity cannot come through discriminatory actions such as the boycott.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

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

S. 1625

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 "Anti-Economic Discrimination Act of 1993".

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) certain countries maintain an economic boycott of Israel, including a secondary boycott of companies that have investments in or trade with Israel;

(2) the secondary boycott has caused economic damage to the countries that maintain the boycott as well as to Israel;

(3) the secondary boycott causes great difficulties for United States firms that trade with Israel, depriving them of trade opportunities and violating internationally accepted principles of free trade;

(4) the United States has a longstanding policy opposing the Arab League boycott and United States law prohibits American firms from providing information to Arab countries to demonstrate compliance with the boycott;

(5) many American companies may be denied contracts in the West Bank and Gaza for infrastructure development because they conduct business with Israel; and

(6) many American companies may be denied contracts by the Kuwaiti Government for the reconstruction of Kuwait because they conduct business with Israel.

SEC. 3. PROHIBITION OF CERTAIN SALES AND LEASES.

(a) PROHIBITION.—No defense article or defense service may be sold or leased by the United States Government to any country or international organization that, as a matter of policy or practice, is known to have sent letters to United States firms requesting compliance with, or soliciting information regarding compliance with, the secondary or tertiary Arab boycott, unless the President determines, and so certifies to the appropriate congressional committees, that that country or organization does not currently maintain a policy or practice of making such requests or solicitations.

(b) WAIVER.—

(1) 1-YEAR WAIVER.—On or after the effective date of this section, the President may waive, for a period of 1 year, the application of subsection (a) with respect to any country or organization if the President determines, and reports to the appropriate congressional committees, that—

(A) such waiver is in the national interest of the United States, and such waiver will promote the objectives of this section to eliminate the Arab boycott; or

(B) such waiver is in the national security interest of the United States.

(2) EXTENSION OF WAIVER.—If the President determines that the further extension of a waiver will promote the objectives of this section, the President, upon notification of the appropriate congressional committees, may grant further extensions of such waiver for successive 12-month periods.

(3) TERMINATION OF WAIVER.—The President may, at any time, terminate any waiver granted under this subsection.

(c) DEFINITIONS.—As used in this section—

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives; and

(2) the terms "defense article" and "defense service" have the meanings given to such terms by paragraphs (3) and (4), respectively, of section 47 of the Arms Export Control Act.

(d) EFFECTIVE DATE.—This section shall take effect 1 year after the date of enactment of this Act.

[From the Washington Times, Sept. 27, 1993]

SYRIA URGES ARABS TO TIGHTEN THEIR BOYCOTT OF ISRAEL

(From Combined Dispatches)

DAMASCUS, SYRIA.—Syria called on other Arab states yesterday to tighten their 400-year-old, economic boycott of Israel, accusing it of asking for everything in the Middle East peace process in return for nothing.

The government newspaper Tishrin and state-run Damascus radio said the boycott could not be abolished before the restoration of Arab rights and the recovery of occupied Arab lands.

That view was echoed by a senior Persian Gulf official and newspapers in the Gulf and Jordan.

Israeli Foreign Minister Shimon Peres has called for an end to the state of war between the Arabs and Israel and the abolition of the boycott.

But Damascus radio responded in a commentary: "Peres' provocative statement proved Israel wants everything in return for nothing. That it will never have so long as a single Arab right remains unrestored and an inch of Arab land remains unliberated."

Tishrin, in an editorial, said: "Arabs are requested to tighten rather than abolish the boycott against Israel because two years of talks on the Middle East in Washington produced nothing due to Israeli rejection of the basis of just and comprehensive peace."

Syria has shown increasing signs of annoyance since the Sept 13 signing of the PLO–Israeli accord, which it sees weakening its negotiating stance.

The Syrian government was apparently worried that lifting the boycott would further strengthen Israel's attitude in the peace talks.

Its official newspapers have given prominence in the last few days to articles about the boycott, but yesterday's editorial and commentary were the first clear statements of official thinking.

The boycott has been enforced since 1953 by Arab League members. Egypt is the only nation in the league to have abolished it, as part of its 1979 peace treaty with Israel.

The direct boycott bars all dealings with all Israeli companies and products. In addition, under an indirect boycott, foreign companies and their subsidiaries that work on strategic projects in Israel are black-listed in Arab countries.

In other Mideast developments yesterday:

• Israel's right-wing Likud party, torn by dissent over the Israel-Palestine Liberation Organization peace accord, signalled a readiness to cooperate or even rule jointly with Prime Minister Yitzhak Rabin's coalition.

The suggestion from Likud lawmaker Michael Eitan came as the party grappled with growing opposition to party leader's Benjamin Netanyahu's strong rejection of the agreement.

Likud has set a list of conditions, including a guarantee that Palestinians wouldn't achieve statehood, for cooperating with Mr. Rabin.

• King Hussein of Jordan signaled that he would probably postpone elections due to be held in November to prevent them from becoming a referendum on the Palestine self-rule agreement between Israel and the PLO.

• A Palestinian blew himself up with a car bomb in the occupied Gaza Strip in an apparent suicide attack gone awry, the Israeli army said. No one else was hurt.

• In Rafah in the occupied Gaza Strip an armed faction of PLO chairman Yasser Arafat's Fatah organization said it would fight on if Israeli troops continued to pursue its activists.

[From the Washington Post, Oct. 1, 1993]

ARAB NATIONS DECLINE TO LIFT ISRAELI EMBARGO—REFUSAL COMES ON EVE OF TALKS SEEKING FUNDS FOR PALESTINIANS

(By Daniel Williams)

UNITED NATIONS, Sept. 30.—Representatives of moderate Arab states deflected pleas from Secretary of State Warren Christopher today to end their economic boycott of Israel, saying their citizens were not ready for such a move.

They also deferred action to reverse anti-Israel resolutions passed by the U.N. General Assembly over the years. In a meeting among Arab diplomats late Wednesday, Syria strongly opposed such a step, saying they should wait until Israel has agreed to withdraw from the Golan Heights, Arab diplomats said. Syria lost the strategic territory at Israel's northeast corner during the 1967 war.

The resistance to conciliatory gestures creates an awkward situation for Friday's 38-nation conference in Washington, during which the United States hopes to obtain pledges of money for Palestinian development in the West Bank and Gaza Strip.

Under the accord signed by Israel and the Palestine Liberation Organization in Washington on Sept. 13, Israel initially will withdraw from part of the occupied territories—the Gaza Strip and the West Bank town of Jericho—and allow Palestinian self-rule.

In Washington, senior U.S. officials declined to speculate how much they expect in pledges from the individual countries attending the donors' conference, staff writer John M. Goshko reported. But the officials, who requested anonymity, said they were confident that the pledges would meet the initial target of $400 million a year for each of the first two years of Palestinian autonomy. Washington has pledged $250 million over two years.

Two Arab countries—Jordan and Lebanon—sought to take advantage of the donors' conference to call attention to their financial plight.

Crown Prince Hassan of Jordan told editors and staff members of The Washington Post that he hopes some of the money for the Palestinians will go into multilateral projects that would benefit Jordan, which has more than 1 million Palestinian refugees. Lebanese Finance Minister Faud Siniora said his country needs $10 billion to help rebuild its war-torn economy.

Christopher, in New York, met with the Gulf Cooperation Council representing Kuwait, Saudi Arabia and other Persian Gulf states. He also met with officials from Egypt, Tunisia, Morocco, Oman and Saudi Arabia.

He called for "confidence-building measures" from the Arab governments, including an end to the economic boycott of Israel, a senior administration official said. "The time to do this is now," he said, according to the senior official's account.

The Arab officials responded that they would need to see an Israeli withdrawal from the West Bank and Gaza. But, they added, the Arab League will consider the issue.

The Arabs gave "a clear impression of movement," the senior official said.•

• Mr. MOYNIHAN. Mr. President, I am pleased to cosponsor the legislation introduced by the senior Senator from Colorado. It has been my pleasure as chairman of the Near East Subcommittee of Foreign Relations to work with Senator BROWN, who is the ranking Republican member of the committee.

This legislation addresses a painful fact about the Arab League Boycott of Israel. Whereas the armies fielded against Israel have most often been supplied by the former Soviet Union, the States which have taken the lead in the economic boycott of Israel have been by and large the erstwhile friends of the United States. In the aftermath of Operation Desert Storm it seems particularly obscene that the Emir of Kuwait and the Saudi royal family should continue to enforce the boycott.

I am pleased to support this legislation, and I do hope that the strong message contained in it is heard. And acted upon in the Gulf State capitals.•

By Mr. ROCKEFELLER (for himself, Mr. DECONCINI, Mr. GRAHAM, Mr. AKAKA, Mr. DASCHLE, and Mr. CAMPBELL):

S. 1626. A bill to amend title 38, United States Code, to revise the Veterans' Home Loan Program; to the Committee on Veterans' Affairs.

THE VETERANS HOME LOAN IMPROVEMENT ACT OF 1993

• Mr. ROCKEFELLER. Mr. President, I am very proud to introduce legislation that will improve VA's Home Loan Program in two ways—first, by extending veterans' entitlement to VA home loans; and second, by allowing veterans' to improve the energy efficiency of their homes while receiving interest rate reduction loans guaranteed by VA.

Mr. President, the Department of Veterans Affairs has been the guarantor of loans used to purchase more than 13 million single-family residences since the Home Loan Program was created as a readjustment benefit provided to the millions of veterans returning after World War II. The VA's Home Loan Program has been a very popular program with America's veterans and has helped millions of veterans enjoy the benefits of home ownership while creating employment for millions of Americans in housing-related industries.

RESTORATION OF HOME LOAN ENTITLEMENT

Mr. President, over the years, the Committee on Veterans' Affairs has heard a number of complaints from veterans that the rules on eligibility to entitlement to home loan benefits should be amended. One of the specific concerns relates to the requirement that, in order to be eligible for a loan, a veteran who had a prior loan must have disposed of the property purchased with the prior loan.

Mr. President, under current law, there are many veterans who have paid

off their VA-guaranteed loan who are ineligible to secure VA guaranteed financing—either while attempting to refinance the loan on that residence or to purchase a new residence—because they have not disposed of their original residence. One example of such a veteran would be one who has paid off his or her VA-guaranteed residential loan and who has divorced and has minor children living in that residence. Another, which is a disturbing scenario occurring more and more often, would involve a veteran who has paid off his VA-guaranteed home loan and has his or her adult children and grandchildren move in. If the veteran now wants to buy a new principal residence using his or her VA loan guaranty, the veteran is unable to do so because the original home has not been sold.

Mr. President, in these and similar cases, although the veteran has paid off the VA-guaranteed loan, the veteran is not able to use his or her VA loan guaranty entitlement. This is bad policy and it is not equitable for our veterans. My proposal, under section 2 of this bill, would allow veterans who have paid off all obligations in connection with the VA Loan Guaranty Program to have their entitlement restored, allowing them to once again secure a principal residence.

ENERGY EFFICIENT MORTGAGES

Mr. President, section 9 of the Veterans Home Loan Program Act of 1992, Public Law 102-547, allows VA to participate in a number of energy efficient mortgage programs. I am pleased to report that the changes authorized under the law last year have been well received throughout the country and thousands of veteran homeowners have used the opportunity to make their homes more energy efficient. This is a very important program and I hope greater attention will be paid to it in the future, since it improves the housing stock and helps support our national policy of reducing the need to create additional expensive sources of energy.

VA's interest-rate-reduction program is designed to allow a veteran to refinance his or her home in order to enjoy lower monthly payments. The interest-rate-reduction loan does not allow the veteran to cash out, that is, to receive funds beyond the amount owed as principal on the loan. My proposal will keep this concept intact and will not allow the veteran borrower to receive cash from the outstanding balance of the loan.

I am proposing in section 3 of the bill to amend section 3710(a) of title 38 to allow veterans who apply for interest-rate-reduction loans to be eligible to secure energy efficient improvements at the same time.

Mr. President, under this proposal not only would veterans lower their mortgage payments, they would at the same time reduce their out-of-pocket expenses for energy. This change will allow the veteran to improve the veteran's home, reduce monthly mortgage payments, and have more money in the family budget at the end of each month by reducing his or her out-of-pocket energy expenses.

Mr. President, I hope to receive Senate action on this legislation as soon as possible.

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. 1626

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 "Veterans' Home Loan Improvement Act of 1993".

SEC. 2. REVISION IN COMPUTATION OF AGGREGATE GUARANTY.

Section 3702(b) of title 38, United States Code, is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph (1):

"(1) the loan has been repaid in full, or the Secretary has been released from liability as to the loan, or if the Secretary has suffered a loss on the loan, the loss has been paid in full; or";

(2) in paragraph (2), by striking out "; or" and inserting in lieu thereof a period; and

(3) by striking out paragraph (3) and all that follows through the end of the subsection.

SEC. 3. AUTHORITY TO GUARANTEE HOME REFINANCE LOANS FOR ENERGY EFFICIENCY IMPROVEMENTS.

(a) LOANS.—(1) Section 3710(a) of title 38, United States Code, is amended by adding after paragraph (10) the following:

"(11) To refinance in accordance with subsection (e) of this section an existing loan guaranteed, insured, or made under this chapter, and to improve the dwelling securing such loan through energy efficiency improvements, as provided in subsection (d) of this section.".

(2) Section 3710(e)(1) of such title is amended by inserting "or subsection (a)(11)" after "subsection (a)(8)".

(b) FEE.—Section 3729(a)(2)(E) of such title is amended by inserting "3710(a)(11)," after "3710(a)(9)(B)(1),".●

By Mr. MITCHELL (for himself and Mr. DOLE) (by request):

S. 1627. A bill to implement the North American Free-Trade Agreement; to the Committee on the Judiciary, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, the Committee on Finance, the Committee on Foreign Relations and the Committee on Governmental Affairs, jointly, pursuant to 19 U.S.C. 2191(c).

NAFTA LEGISLATION

Mr. MITCHELL. Mr. President, I am pleased to introduce with Senator DOLE the implementing legislation for the North American Free-Trade Agreement. This trade agreement provides the United States with historic opportunities for the future: expanding markets in this hemisphere, increasing U.S. exports to emerging markets, and promoting social and economic stability throughout the Americas. We must take advantage of these opportunities.

Our economic security depends on opening closed foreign markets and providing U.S. companies and workers with access to emerging markets. In 1992, this Nation exported goods valued at over $420 billion, a 36-percent increase over 1988 exports, and more than 7 percent of U.S. gross domestic product. The future of the U.S. economy is closely linked to its ability to respond to the demands of the global marketplace.

Over the past 30 years, the productivity of U.S. workers has increased sharply. And U.S. workers continue to be the most productive workers in the world. But while each U.S. worker is producing more goods, the U.S. economy now comprises a smaller share of the global economy. U.S. gross domestic product as a percentage of the global economy has declined from approximately 37 percent in 1950 to approximately 22 percent in 1992. The United States cannot be satisfied with simply selling to our domestic market. We must take advantage of global markets so that U.S. companies and workers will benefit from their increased productivity and efficiency.

The United States cannot ignore the realities of an international economy. Capital, technology, and information are highly mobile. They can be rapidly, redistributed around the world. The world's companies seek well-educated, highly skilled workers, efficient transportation, cheap and reliable power sources, access to high technology, advanced communications networks, and adequate business services. Companies are not restricted by geographical boundaries. We cannot ignore these facts. Rejecting this trade agreement will not change these facts.

U.S. and foreign companies are now making substantial investments in U.S. manufacturing plants. Companies such as Mercedes-Benz and BMW are building automobile plants in the United States—not Mexico—for good reasons. The Office of Technology Assessment has reported that it costs $8,777 to build a car in the United States compared to $9,180 to build a car in Mexico. At the same time, other U.S. businesses are investing in foreign manufacturing plants to produce goods for both foreign markets and the U.S. market. However, these investment decisions have been made in the past—and will be made in the future regardless of whether Congress passes the North American Free-Trade Agreement.

Our trading competitors recognize the importance of seizing new opportunities in the international marketplace. Japan is developing new markets

in the Far East. The European Community is searching out new opportunities in Eastern Europe and the nations of the former Soviet Union. The United States must compete with our trading partners in these and other emerging markets.

The North American Free-Trade Agreement presents the United States with an opportunity to create the biggest market in the world—an economy of $6.5 trillion and 370 million people. United States companies and workers already have benefited from expanded trade with Mexico. In the past 7 years, United States exports to Mexico have grown dramatically, from approximately $12 billion in 1986 to over $40 billion in 1992. The United States trade balance with Mexico has improved from a $5.7 billion deficit in 1987 to a $5.4 billion surplus in 1992. Mexico is now our third largest trading partner.

The principal purpose of the North American Free-Trade Agreement is the removal of trade barriers between the three nations. The trade agreement eliminates many Mexican tariff and non-tariff barriers which are much higher than any United States trade barrier. Over time, the NAFTA will eliminate Mexican tariffs, which average roughly 10 percent—more than two and half times the average United States tariff of 4 percent. NAFTA also eliminates numerous non-tariff barriers that require United States companies to invest or manufacture in Mexico in order to supply the Mexican market. This trade agreement replaces the present United States-Mexico trading rules—which have unfairly restrained United States exports to Mexico—with fair trading rules.

Since the United States has a trade surplus with Mexico, I believe that the fear of free trade with Mexico is misplaced. In 1992, the United States had bilateral trade deficits of $49 billion with Japan, $18.3 billion with China, $9 billion with Taiwan, $3.8 billion with Malaysia, $3.5 billion with Thailand, $2.3 billion with South Korea, $1.7 billion with Singapore and $1.5 billion with Indonesia. In many of the developing economies, the gross domestic product per capita is less than that of Mexico. Their exports to the United States have exploded over the last 10 years, and there is little to prevent U.S. companies from moving their manufacturing facilities to these countries.

When U.S. companies move their plants to the Far East, the United States does not often supply the capital equipment, the component parts, the materials or the services required to manufacture those consumer products. In Mexico, however, the United States remains an important partner in the production process. On an annual per capita basis, the average Mexican buys $450 worth of United States goods. That exceeds the per capita purchases of the more affluent Japanese or Europeans. We should not fear expanded trade with Mexico, since approximately 70 percent of its imports are from the United States.

If the United States does not capitalize on this opportunity, our competitors surely will. Our trading partners in Asia and Europe will sell their consumer products, commodities, capital goods and services in the Mexican market. And the United States, its companies and its workers will lose exports and jobs that come from those exports.

Maine companies and workers have already benefited from expanded trade with Mexico. Maine exports to Mexico have increased 774 percent from 1987 to 1992. Maine companies now are selling to Mexico a wide range of products, from leather to metal products to electronics to apparel.

The North American Free-Trade Agreement will help these and other Maine industries sell more of their goods and services in Mexico. The Mexican tariff on Maine sardines will be eliminated over a 10-year period. The Mexican tariffs on solid wood products, which range from 10 to 20 percent, will be eliminated over a 10-year period, and tariffs on lumber for wood frame construction will be eliminated immediately. The Mexican tariffs for pulp and paper, which are about 10 percent, will be eliminated within 10 years.

An expanded Mexican market will help other Maine companies, including the leather, scientific and medical equipment, and electronic equipment manufacturers, and insurance companies. One Maine company, Hussey Seating Co., has written, "Our sales would increase dramatically over 5 years. Presently, sales are about $150,000 annually. In 5 years we would expect this to increase to at least $1 million annually. This would mean an employment increase of 10 full-time people." That is one small example. There are many others. Opening the Mexican market to Maine products will have a positive side effect in our State: more Maine jobs.

The global economy is continually changing, and the United States must adapt to these changes. Our Nation cannot attempt to recreate or relive the past. We must seek new opportunities for the future. We must confront and turn to our advantage the inevitable challenge of change. The North American Free-Trade Agreement will provide historic opportunities for the United States economy in the 21st century. I look forward to its enactment in the near future.

Mr. DOLE. Mr. President, I am pleased to join with the majority leader in formally introducing the implementing legislation for the North American Free-Trade Agreement.

We have reached the final stage in the debate over NAFTA. The House is expected to vote in 13 days. I believe President Clinton is determined in this remaining time to undertake a full-scale, no-holds-barred national campaign to show how important this agreement is to our future as a leader in world trade and economic prosperity.

NAFTA is a model for future trade relations among nations. No trade agreement in history has ever held greater promise for unlocking the productive and competitive capacity of an entire hemisphere.

Mexico, and other Latin American nations such as Chile and Argentina are now on track for sustained economic growth. They are throwing off the shackles of statism, of over-regulation, and policies of nationalization. They see free enterprise and open trade as the only way to ensure a rising standard of living. The United States has been their model in this transformation to openness and free markets.

It would be a cruel irony to spurn these countries at the moment of their emergence.

In addition, Mr. President, NAFTA is simply the right thing to do. It is right for America. It means jobs, growth prosperity, and opportunity for Americans.

So I am very pleased to be introducing this bill today, and I look forward to its passage within the next 2 weeks, heralding the bright dawn of the 21st century global economy.

Mr. PACKWOOD. Mr. President, with today's introduction of the bill to implement the North American Free-Trade Agreement, or NAFTA as it is commonly referred to, the Congress formally begins deliberation on what is perhaps one of the most important trade issues that the United States has ever considered.

In my view, underlying the NAFTA debate are a couple of fundamental questions: How should the United States respond to the new global competition we face from our trading partners and what should be our future role in the world? NAFTA opponents think the best way to respond is to retreat and close ourselves off from rest of the world. This does little to improve our competitiveness and only denies us new economic opportunities and growth. I think the United States, which has one of the most productive economies in the world, should be eager to compete and win in the global marketplace. The NAFTA is the next logical step in preparing ourselves for this new competition.

Over the past 2 months, dozens of congressional committees of jurisdiction have worked closely with the administration in crafting the implementing bill and the statement of administrative action, or SAA, which accompanies the bill and describes how the administration intends to implement the NAFTA.

The NAFTA calls for an implementation date of January 1, 1994. Under the fast-track rules, now that the President has submitted the implementing bill and SAA to the Congress, Congress has a maximum of 90 working days to consider and vote on the NAFTA. Needless to say, in order to get a vote on the agreement this year, we will need to move it through the Congress under a faster timetable. This is what the President has asked for, and I think we should comply with his request.

ADDITIONAL COSPONSORS

S. 27

At the request of Mr. SARBANES, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 27, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 426

At the request of Mr. SHELBY, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 426, a bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States.

S. 482

At the request of Mr. BOREN, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 482, a bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to furnish outpatient medical services for any disability of a former prisoner of war.

S. 540

At the request of Mr. HEFLIN, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 540, a bill to improve the administration of the bankruptcy system, address certain commercial issues and consumer issues in bankruptcy, and establish a commission to study and make recommendations on problems with the bankruptcy system, and for other purposes.

S. 732

At the request of Mr. KENNEDY, the names of the Senator from California [Mrs. FEINSTEIN], and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 732, a bill to provide for the immunization of all children in the United States against vaccine-preventable diseases, and for other purposes.

S. 830

At the request of Mr. EXON, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 830, a bill for the relief of Richard W. Schaffert.

S. 1188

At the request of Mr. COVERDELL, the names of the Senator from Texas [Mrs. HUTCHISON], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 1188, a bill to provide that Federal regulatory mandates shall not be enforced unless the cost to the States of implementing them are funded by the Federal Government.

S. 1203

At the request of Mr. HATFIELD, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 1203, a bill to establish a Center for Rare Disease Research in the National Institutes of Health, and for other purposes.

S. 1437

At the request of Mr. DOLE, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1437, a bill to amend section 1562 of title 38, United States Code, to increase the rate of pension for persons on the Medal of Honor roll.

S. 1443

At the request of Mr. KEMPTHORNE, his name was added as a cosponsor of S. 1443, a bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on luxury passenger vehicles.

S. 1522

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 1522, a bill to direct the U.S. Sentencing Commission to promulgate guidelines or amend existing guidelines to provide sentencing enhancements of not less than three offense levels for hate crimes.

At the request of Mrs. FEINSTEIN, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1522, supra.

S. 1533

At the request of Mr. LOTT, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 1533, a bill to improve access to health insurance and contain health care costs, and for other purposes.

S. 1576

At the request of Mr. COATS, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 1576, a bill to provide a tax credit for families, to provide certain tax incentives to encourage investment and increase savings, and to place limitations on the growth of spending.

SENATE JOINT RESOLUTION 52

At the request of Mr. PACKWOOD, the names of the Senator from Minnesota [Mr. DURENBERGER], the Senator from Maryland [Mr. SARBANES], the Senator from Hawaii [Mr. INOUYE], and the Senator from North Dakota [Mr. DORGAN] were added as cosponsors of Senate Joint Resolution 52, a joint resolution to designate the month of November 1993 and 1994 as "National Hospice Month".

SENATE CONCURRENT RESOLUTION 31

At the request of Mr. DODD, the names of the Senator from Nebraska [Mr. EXON], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of Senate Concurrent Resolution 31, a concurrent resolution concerning the emancipation of the Iranian Baha'i community.

AMENDMENT NO. 1097

At the request of Mrs. FEINSTEIN, the names of the Senator from Washington [Mrs. MURRAY], the Senator from Georgia [Mr. COVERDELL], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of amendment No. 1097 proposed to S. 1607, a bill to control and prevent crime.

At the request of Mr. KENNEDY, his name was added as a cosponsor of amendment No. 1097 proposed to S. 1607, supra.

At the request of Mr. HATCH, his name was added as a cosponsor of amendment No. 1097 proposed to S. 1607, supra.

At the request of Mr. WOFFORD, his name was added as a cosponsor of amendment No. 1097 proposed to S. 1607, supra.

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of amendment No. 1097 proposed to S. 1607, supra.

At the request of Mr. HARKIN, his name, and the name of the Senator from Kansas [Mr. DOLE] were added as cosponsors of amendment No. 1097 proposed to S. 1607, supra.

SENATE RESOLUTION 161—ORIGINAL RESOLUTION REPORTED TO AUTHORIZE THE PRINTING OF A REVISED EDITION OF THE SENATE ELECTION LAW GUIDEBOOK

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution:

S. RES. 161

Resolved, That the Committee on Rules and Administration hereby is directed to prepare a revised edition of the Senate Election Law Guidebook, Senate document 102-15, and that such document shall be printed as a Senate document.

SEC. 2. There shall be printed 600 additional copies of the document specified in section 1 of this resolution for the use of the Committee on Rules and Administration.

AMENDMENTS SUBMITTED

OMNIBUS CRIME LEGISLATION

ROTH (AND OTHERS) AMENDMENT NO. 1098

Mr. GRASSLEY (for Mr. ROTH for himself, Mr. GRASSLEY, Mr. THURMOND, Mr. COATS, Mr. HATCH, Mr. NICKLES, Mr. HEFLIN, Mr. MURKOWSKI, Mr. SASSER, Mrs. KASSEBAUM, Mrs. FEINSTEIN, Mr. GRAMM, Mr. CONRAD, and Mrs. HUTCHISON) proposed an amendment to amendment No. 1097 proposed by Mrs. FEINSTEIN to the bill (S. 1607) to control and prevent crime; as follows:

At the end of the pending amendment insert the following:

SEC. . CONFIRMATION OF INTENT OF CONGRESS IN ENACTING SECTIONS 2252 AND 2256 OF TITLE 18, UNITED STATES CODE.

(a) DECLARATION.—The Congress declares that in enacting sections 2252 and 2256 of title 18, United States Code, it was and is the intent of Congress that—

(1) the scope of "exhibition of the genitals or pubic area" in section 2256(2)(E), in the definition of "sexually explicit conduct", is not limited to nude exhibitions or exhibitions in which the outlines of those areas were discernible through clothing; and

(2) the requirements in section 2252(a)(1)(A), (2)(A), (3)(B)(i), and (4)(B)(i) that the production of a visual depiction involving the use of a minor engaging in "sexually explicit conduct" of the kind described in section 2256(2)(E) are satisfied if a person photographs a minor in such a way as to exhibit the child in a lascivious manner.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that in filing its brief in United States v. Knox, No. 92-1183, and thereby depriving the United States Supreme Court of the adverseness necessary for full and fair presentation of the issues arising in the case, the Department of Justice did not accurately reflect the intent of Congress in arguing that "the videotapes in [the Knox case] constitute 'lascivious exhibition[s] of the genitals or pubic area' only if those body parts are visible in the tapes and the minors posed or acted lasciviously.".

HATCH (AND OTHERS) AMENDMENT NO. 1099

Mr. HATCH (for himself, Mr. MACK, Mr. DOLE, and Mr. GRAMM) proposed an amendment to the bill S. 1607, supra; as follows:

On page 294, strike line 1 and all that follows through page 303, line 21 and insert the following:

Subtitle B—Regional Prisons and State Prisons

SEC. 1331. REGIONAL PRISONS FOR VIOLENT CRIMINALS AND VIOLENT CRIMINAL ALIENS.

(a) DEFINITIONS.—In this section—

"child abuse offense" means an offense under Federal or State law that constitutes sexual exploitation of children or selling or buying of children within the meaning of chapter 110 of title 18, United States Code.

"firearm offense" means an offense under Federal or State law committed while the offender is in possession of a firearm or while an accomplice of the offender, to the knowledge of the offender, is in possession of a firearm.

"crime of violence" means a felony offense under Federal or State law that is a crime of violence within the meaning of section 16 of title 18, United States Code.

"qualifying prisoner" means—

(A) an alien who is in this country illegally or unlawfully and who has been convicted of a crime of violence (as defined in section 924(c)(3) of title 18, United States Code) or a serious drug offense (as defined in section 924(e)(2)(A) of title 18, United States Code); and

(B) a violent criminal.

"sex offense" means an offense under Federal or State law that constitutes aggravated sexual abuse, sexual abuse, sexual abuse of a minor or ward, or abusive sexual contact within the meaning of chapter 109A of title 18, United States Code.

"violent criminal"—

(A) means a person convicted under Federal law of an offense described in, under the circumstances described in, the provisions of section 924 (c) or (e) of title 18 or section 994(h) of title 28, United States Code, or under State law for the same or a similar offense; and

(B) insofar as any of the circumstances described in an offense described in subparagraph (A) is the prior conviction of an offense, includes a person who had been adjudicated as a juvenile delinquent by reason of the commission of an act that, if committed by an adult, would constitute such an offense.

(b) CONSTRUCTION OF PRISONS.—The Attorney General shall, after consultation with state correctional administrators, construct a minimum of 10 regional prisons, situated throughout the United States, each containing space for at least 2,500 inmates. At least 75 percent of the overall capacity of such prisons in the aggregate shall be dedicated to qualifying prisoners from qualifying States.

(c) ACCEPTANCE OF PRISONERS.—Any qualifying State may apply to the Attorney General to accept any qualifying prisoner. If, in the Attorney General's judgment there are likely to be more qualifying prisoners than there is space available, then to the extent that the Attorney General deems it practicable, the Attorney General should seek to allocate space among qualifying States in a proportion similar to the number of qualifying prisoners held by that State in relation to the total number of qualifying prisoners from qualifying States.

(d) QUALIFYING STATE.—

(1) IN GENERAL.—The Attorney General shall not certify a State as a qualifying State under this section unless the State is providing—

(A) truth in sentencing with respect to any crime of violence that is consistent with that provided in the Federal system in chapter 229 of title 18, United States Code, which provides that defendants will serve at least 85 percent of the sentence ordered and which provides for a binding sentencing guideline system in which sentencing judges' discretion is limited to ensure greater uniformity in sentencing;

(B) pretrial detention similar to that provided in the Federal system under section 3142 of title 18, United States Code;

(C) sentences for firearm offenders, violent criminals, sex offenders, and child abuse offenders that, after application of relevant sentencing guidelines, result in the imposition of sentences that are at least as long as those imposed under Federal law (after application of relevant sentencing guidelines); and

(D) suitable recognition for the rights of victims, including consideration of the victim's perspective at all appropriate stages of criminal proceedings.

(2) DISQUALIFICATION.—The Attorney General shall withdraw a State's status as a qualifying State if the Attorney General finds that the State no longer appropriately provides for the matters described in paragraph (1) or has ceased making substantial progress toward attaining them, in which event the State shall no longer be entitled to the benefits of this section, except to the extent the Attorney General otherwise directs.

(3) WAIVER.—The Attorney General may waive, for no more than one year, any of the requirements of this subsection with respect to a particular State if the Attorney General certifies that, in the Attorney General's judgment, there are compelling law enforcement reasons for doing so. Any State granted any such waiver shall be treated as a qualifying State for all purposes of this subtitle, unless the Attorney General otherwise directs.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $600,000,000 for fiscal year 1994;

(2) $600,000,000 for fiscal year 1995;

(3) $600,000,000 for fiscal year 1996;

(4) $600,000,000 for fiscal year 1997; and

(5) $600,000,000 for fiscal year 1998.

SEC. 1322. FEDERAL GRANTS FOR STATE PRISON CONSTRUCTION AND OPERATION.

(a) DEFINITION.—In this section, "new prison" means—

(1) a prison or bootcamp or city or county detention facility, including an addition to an existing prison or city or county detention facility, certified by the State, and approved by the Attorney General, as providing additional prison capacity beyond that which the State previously had available or had already planned to construct; and

(2) a prison that is principally dedicated, as determined by the Attorney General, to housing repeat violent offenders and sex offenders.

(b) GRANTS.—The Attorney General may enter into agreements with any qualifying State to provide construction grants or operating grants for new prisons.

(c) CONSTRUCTION GRANTS.—The Attorney General may make construction grants for up to 50 percent of the construction costs, as approved by the Director of the Federal Bureau of Prisons, for new prisons.

(d) OPERATING GRANTS.—The Attorney General may make operating grants for up to 50 percent of the operating costs, as approved by the Director of the Federal Bureau of Prisons, for new prisons.

(e) CANCELING GRANTS.—The Attorney General may, in the Attorney General sole discretion, cancel any construction grant or operating grant if the Attorney General finds that a State is using those funds to substitute for existing funds or to provide prison space that substitutes for existing prison space.

(f) DISTRIBUTION OF GRANTS.—The Attorney General shall ensure that each State receives no less than 50 percent of the funds made available under this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $600,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998, of which 50 percent shall be used for construction grants and 50 percent shall be used for operating grants, except that the Attorney General may alter those allocations if the Attorney General certifies that there are compelling law enforcement reasons for doing so.

SEC. 1324. SENTENCES TO ACCOUNT FOR COSTS TO THE GOVERNMENT OF IMPRISONMENT, RELEASE, AND PROBATION.

(a) IMPOSITION OF SENTENCE.—Section 3572(a) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) the expected costs to the government of any imprisonment, supervised release, or probation component of the sentence;".

(b) DUTIES OF THE SENTENCING COMMISSION.—Section 994 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(y) The Commission, in promulgating guidelines pursuant to subsection (a)(1), may include, as a component of a fine, the expected costs to the Government of any imprisonment, supervised release, or probation sentence that is ordered.".

SEC. 1325. OVERHEAD EXPENSE REDUCTION FUNDING.

(a) CBO SCORING.—The Congressional Budget Office estimates that the reduction in administrative costs required by this section will produce savings of $6,000,000,000 over 5 years ($1,200,000,000 in each of fiscal years 1994, 1995, 1996, 1997, and 1998).

(b) REDUCTION.—The overhead expenses identified and reduced by the President in Executive Order 12837 are hereby reduced by an additional 5 percent. The reduction required by this section shall be taken from the total of such expenses before the reduction by the President.

(c) ALLOCATION.—The amount of available budget authority resulting from enactment of this section shall be reallocated for programs authorized pursuant to this subtitle.

BIDEN AMENDMENT NO. 1100

Mr. BIDEN proposed an amendment to the bill S. 1607, supra; as follows:

On page 276 line 6 insert "non-" before "violent".

Strike all after the first word in the amendment and insert the following:

BYRD (AND OTHERS) AMENDMENT NO. 1101

Mr. BYRD (for himself, Mr. SASSER, Mr. MITCHELL, Mr. BIDEN, and Mr. DODD) proposed an amendment to amendment No. 1099 proposed by Mr. HATCH to the bill S. 1607, supra; as follows:

B—State Prisons

SEC. 1321. BOOT CAMPS AND REGIONAL PRISONS FOR VIOLENT DRUG OFFENDERS.

(a) DEFINITION.—In this section, "boot camp prison program" means a correctional program of not more than 6 months' duration involving—

(1) assignment for participation in the program, in conformity with State law, by prisoners other than prisoners who have been convicted at any time of a violent felony;

(2) adherence by inmates to a highly regimented schedule that involves strict discipline, physical training, and work;

(3) participation by inmates in appropriate education, job training, and substance abuse counseling or treatment; and

(4) aftercare services for inmates following release that are coordinated with the program carried out during the period of imprisonment.

(b) ESTABLISHMENT OF GRANT AND TECHNICAL ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Attorney General may make grants to States and to multi-State compact associations for the purposes of—

(A) developing, constructing, expanding, and improving boot camp prison programs;

(B) developing, constructing, and operating regional prisons that house and provide treatment for violent offenders with serious substance abuse problems; and

(C) assisting in activating existing boot camp or prison facilities that are unutilized or underutilized because of lack of funding.

(2) TECHNICAL ASSISTANCE.—The Attorney General may provide technical assistance to grantees under this section.

(3) UTILIZATION OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this section.

(c) STATE AND MULTI-STATE COMPACT APPLICATIONS.—

(1) IN GENERAL.—To request a grant under this section, the chief executive of a State or the coordinator of a multi-State compact association shall submit an application to the Attorney General in such form and containing such information as the Attorney General may prescribe by regulation or guidelines.

(2) CONTENT OF APPLICATION.—In accordance with the regulations or guidelines established by the Attorney General, an application for a grant under this section shall—

(A) include a long-term strategy and detailed implementation plan;

(B) include evidence of the existence of, and describe the terms of, a multi-State compact for any multiple-State plan;

(C) provide a description of any construction activities, including cost estimates, that will be a part of any plan;

(D) provide a description of the criteria for selection of prisoners for participating in a boot camp prison program or assignment to a regional prison or activated prison or boot camp facility that is to be funded;

(E) provide assurances that the boot camp prison program, regional prison, or activated prison or boot camp facility that receives funding will provide work programs, education, job training, and appropriate drug treatment for inmates;

(F) provide assurances that—

(i) prisoners who participate in a boot camp prison program or are assigned to a regional prison or activated prison or boot camp facility that receives funding will be provided with aftercare services; and

(ii) a substantial proportion of the population of any regional prison that receives funds under this section will be violent offenders with serious substance abuse problems, and provision of treatment for such offenders will be a priority element of the prison's mission;

(G) provide assurances that aftercare services will involve the coordination of the boot camp prison program, regional prison, or activated prison or boot camp facility, with other human service and rehabilitation programs (such as educational and job training programs, drug counseling or treatment, parole or other post-release supervision programs, halfway house programs, job placement programs, and participation in self-help and peer group programs) that reduce the likelihood of further criminality by prisoners who participate in a boot camp program or are assigned to a regional prison or activated prison or boot camp facility following release;

(H) explain the applicant's inability to fund the program adequately without Federal assistance;

(I) identify related governmental and community initiatives that complement or will be coordinated with the proposal;

(J) certify that there has been appropriate coordination with all affected agencies; and

(K) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support.

(d) LIMITATIONS ON FUNDS.—

(1) NONSUPPLANTING REQUIREMENT.—Funds made available under this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

(2) ADMINISTRATIVE COSTS.—No more than 5 percent of the funds available under this section may be used for administrative costs.

(3) MATCHING FUNDS.—The portion of the costs of a program provided by a grant under this section may not exceed 75 percent of the total cost of the program as described in the application.

(4) DURATION OF GRANTS.—

(A) IN GENERAL.—A grant under this section may be renewed for up to 3 years beyond the initial year of funding if the applicant demonstrates satisfactory progress toward achievement of the objectives set out in an approved application.

(B) MULTIYEAR GRANTS.—A multiyear grant may be made under this section so long as the total duration of the grant, including any renewals, does not exceed 4 years.

(e) CONVERSION OF PROPERTY AND FACILITIES AT CLOSED OR REALIGNED MILITARY INSTALLATIONS INTO BOOT CAMP PRISONS AND REGIONAL PRISONS.—

(1) DEFINITION.—In this subsection, "base closure law" means—

(A) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note);

(B) the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note);

(C) section 2687 of title 10, United States Code; and

(D) any other similar law.

(2) DETERMINATION OF SUITABILITY FOR CONVERSION.—Notwithstanding any base closure law, the Secretary of Defense may not take any action to dispose of or transfer any real property or facility located at a military installation to be closed or realigned under a base closure law until the Secretary notifies the Attorney General of any property or facility at that installation that is suitable for use as a boot camp prison or regional prison.

(3) TRANSFER.—The Secretary shall, upon the request of the Attorney General, transfer to the Attorney General, without reimbursement, the property or facilities covered by the notification referred to in paragraph (2) in order to permit the Attorney General to utilize the property or facilities as a boot camp prison or regional prison.

(4) REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall prepare and disseminate to State and local officials a report listing any real property or facility located at a military installation to be closed or realigned under a base closure law that is suitable for use as a boot camp prison or regional prison. The Attorney General shall periodically update this report for dissemination to State and local officials.

(5) APPLICABILITY.—This subsection shall apply with respect to property or facilities located at military installations the closure or realignment of which commences after the date of enactment of this Act.

(f) PERFORMANCE EVALUATION.—

(1) EVALUATION COMPONENTS.—

(A) IN GENERAL.—Each boot camp prison, regional prison, and activated prison or boot camp facility program funded under this section shall contain an evaluation component developed pursuant to guidelines established by the Attorney General.

(B) OUTCOME MEASURES.—The evaluations required by this paragraph shall include outcome measures that can be used to determine the effectiveness of the funded programs, including the effectiveness of such programs in comparison with other correctional programs or dispositions in reducing the incidence of recidivism.

(2) PERIODIC REVIEW AND REPORTS.—

(A) REVIEW.—The Attorney General shall review the performance of each grant recipient under this section.

(B) REPORTS.—The Attorney General may require a grant recipient to submit to the Attorney General the results of the evaluations required under paragraph (1) and such other data and information as the Attorney General deems reasonably necessary to carry out the Attorney General's responsibilities under this section.

(3) REPORT TO CONGRESS.—The Attorney General shall submit an annual report to Congress describing the grants awarded under this section and providing an assessment of the operations of the programs receiving grants.

(g) REVOCATION OR SUSPENSION OF FUNDING.—If the Attorney General determines, as a result of the reviews required by subsection (f), or otherwise, that a grant recipient under this section is not in substantial compliance with the terms and requirements of an approved grant application, the Attorney General may revoke or suspend funding of the grant in whole or in part.

(h) ACCESS TO DOCUMENTS.—The Attorney General and the Comptroller General shall have access for the purpose of audit and examination to—

(1) the pertinent books, documents, papers, or records of a grant recipient under this section; and

(2) the pertinent books, documents, papers, or records of other persons and entities that are involved in programs for which assistance is provided under this section.

(i) GENERAL REGULATORY AUTHORITY.—The Attorney General may issue regulations and guidelines to carry out this section.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $2,000,000,000, to remain available until expended.

(2) USE OF APPROPRIATED FUNDS.—No more than one-third of the amounts appropriated under paragraph (1) may be used to make grants for the construction, development, and operation of regional prisons under subsection (b)(1)(B).

VIOLENT CRIME REDUCTION TRUST FUND

SEC. 1321A. PURPOSES.

The Congress declares it essential—

(1) to fully fund the control and prevention of violent crime authorized in this Act over the next 5 years;

(2) to ensure orderly limitation and reduction of Federal Government employment, as recommended by the Report of the National Performance Review, conducted by the Vice President;

(3) to apply sufficient amounts of the savings achieved by limiting Government employment to the purpose of ensuring full funding of this Act over the next 5 years.

SEC. 1321B. REDUCTION OF FEDERAL FULL-TIME EQUIVALENT POSITIONS.

(a) DEFINITION.—For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code, but does not include the General Accounting Office.

(b) LIMITATIONS ON FULL-TIME EQUIVALENT POSITIONS.—The President, through the Office of Management and Budget (in consultation with the Office of Personnel Management), shall ensure that the total number of full-time equivalent positions in all agencies shall not exceed—

(1) 2,095,182 during fiscal year 1994;

(2) 2,044,100 during fiscal year 1995;

(3) 2,003,846 during fiscal year 1996;

(4) 1,963,593 during fiscal year 1997; and

(5) 1,923,339 during fiscal year 1998.

(c) MONITORING AND NOTIFICATION.—The Office of Management and Budget, after consultation with the Office of Personnel Management, shall—

(1) continuously monitor all agencies and make a determination on the first date of each quarter of each applicable fiscal year of whether the requirements under subsection (b) are met; and

(2) notify the President and the Congress on the first date of each quarter of each applicable fiscal year of any determination that any requirement of subsection (b) is not met.

(d) COMPLIANCE.—If at any time during a fiscal year, the Office of Management and Budget notifies the President and the Congress that any requirement under subsection (b) is not met, no agency may hire any employee for any position in such agency until the Office of Management and Budget notifies the President and the Congress that the total number of full-time equivalent positions for all agencies equals or is less than the applicable number required under subsection (b).

(e) WAIVER.—Any provision of this section may be waived upon—

(1) a determination by the President of the existence of war or a national security requirement; or

(2) the enactment of a joint resolution upon an affirmative vote of three-fifths of the Members of each House of the Congress duly chosen and sworn.

SEC. 1321C. CREATION OF VIOLENT CRIME REDUCTION TRUST FUND.

(a) ESTABLISHMENT OF THE ACCOUNT.—Chapter 11 of title 31, United States Code, is amended by inserting at the end thereof the following new section:

§ 1115. Violent crime reduction trust fund.

"(a) There is established a separate account in the Treasury, known as the "Violent Crime Reduction Trust Fund," into which shall be deposited deficit reduction achieved by section 13218 of the Violent Crime Control and Law Enforcement Act of 1993 sufficient to fund that Act (as defined in subsection (b) of this section).

"(b) On the first day of the following fiscal years (or as soon thereafter as possible for fiscal year 1994). the following amounts shall be transferred from the general fund to the Violent Crime Reduction Trust Fund—

"(1) for fiscal year 1994, $720,000,000;

"(2) for fiscal year 1995, $2,379,000,000;

"(3) for fiscal year 1996, $3,168,000,000;

"(4) for fiscal year 1997, $3,517,000,000; and

"(5) for fiscal year 1998, $2,492,000,000;

"(c) Notwithstanding any other provision of law—

"(1) the amounts in the Violent Crime Reduction Trust Fund may be appropriated exclusively for the purposes authorized in the Violent Crime Control and Law Enforcement Act of 1993;

"(2) the amounts in the Violent Crime Reduction Trust Fund and appropriations under paragraph (1) of this section shall be excluded from, and shall not be taken into account for purposes of, any budget enforcement procedures under the Congressional Budget Act of 1974 or the Balanced Budget and Emergency Deficit Control Act of 1985; and

"(3) for purposes of this subsection, "appropriations under paragraph (1)" mean amounts of budget authority not to exceed the balances of the Violent Crime Reduction Trust Fund and amounts of outlays that flow from budget authority actually appropriated.".

(b) LISTING OF THE VIOLENT CRIME REDUCTION TRUST FUND AMONG GOVERNMENT TRUST FUNDS.—Section 1321(a) of title 31, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(91) Violent Crime Reduction Trust Fund.".

(c) REQUIREMENT FOR THE PRESIDENT TO REPORT ANNUALLY ON THE STATUS OF THE ACCOUNT.—Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof:

"(29) information about the Violent Crime Reduction Trust Fund, including a separate statement of amounts in that Trust Fund.".

SEC. 1321D. CONFORMING REDUCTION IN DISCRETIONARY SPENDING LIMITS.

The Director of the Office of Management and Budget shall, upon enactment of this Act, reduce the discretionary spending limits set forth in section 601(a)(2) of the Congressional Budget Act of 1974 for fiscal years 1994 through 1998 as follows:

(1) for fiscal year 1994, for the discretionary category: $720,000,000 in new budget authority and $161,000,000 in outlays;

(2) for fiscal year 1995, for the discretionary category: $2,379,000,000 in new budget authority and $884,000,000 in outlays;

(3) for fiscal year 1996, for the discretionary category: $3,168,000,000 in new budget authority and $2,191,000,000 in outlays;

(4) for fiscal year 1997, for the discretionary category: $3,517,000,000 in new budget authority and $3,342,000,000 in outlays; and

(5) for fiscal year 1998, for the discretionary category: $2,492,000,000 in new budget authority and $3,470,000,000 in outlays.

DOLE (AND OTHERS) AMENDMENT NO. 1102

Mr. DOLE (for himself, Mrs. FEINSTEIN, and Mrs. BOXER) proposed an amendment to the bill S. 1607, supra; as follows:

On page 426, after line 25 add the following:

SEC. 2907. INCREASED PENALTIES FOR ARSON.

Section 844 of title 18, United States Code, is amended—

(1) in subsection (f)—

(A) by striking "ten years, or fined not more than $10,000" and inserting "20 years, fined the greater of $100,000 or the cost of repairing or replacing any property that is damaged or destroyed"; and

(B) by striking "twenty years, or fined not more than $20,000" and inserting "40 years, fined the greater of $200,000 or the cost of repairing or replacing any property that is damaged or destroyed";

(2) in subsection (h)—

(A) in the first sentence by striking "five years" and inserting "10 years"; and

(B) in the second sentence by striking "ten years" and inserting "20 years"; and

(3) in subsection (i)—

(A) by striking "ten years or fined not more than $10,000" and inserting "20 years, fined the greater of $100,000 or the cost of repairing or replacing any property that is damaged or destroyed"; and

(B) by striking "twenty years or fined not more than $20,000" and inserting "40 years, fined the greater of $200,000 or the cost of repairing or replacing any property that is damaged or destroyed".

BYRD (AND OTHERS) AMENDMENT NO. 1103

Mr. BYRD (for himself, Mr. MITCHELL, Mr. DOLE, Mr. BIDEN, Mr. HATCH,

Mr. SASSER, Mr. GRAMM, Mr. KERRY, Mr. DODD, Mr. MACK, Mr. THURMOND, Mr. DORGAN, Mr. DOMENICI, Mr. CONRAD, Mr. COHEN, Mr. D'AMATO, Mr. BRYAN, Mr. LIEBERMAN, Mr. WOFFORD, Mr. ROBB, and Mr. HOLLINGS) proposed an amendment to the bill S. 1607, supra; as follows:

At the appropriate place, insert the following:

Subtitle A—Regional Prisons and State Prisons

SEC. 1331. REGIONAL PRISONS FOR VIOLENT CRIMINALS AND VIOLENT CRIMINAL ALIENS.

(a) DEFINITIONS.—In this section—

"child abuse offense" means an offense under Federal or State law that constitutes sexual exploitation of children or selling or buying of children within the meaning of chapter 110 of title 18, United States Code.

"firearms offense" means an offense under Federal or State law committed while the offender is in possession of a firearm or while an accomplice of the offender, to the knowledge of the offender, is in possession of a firearm.

"crime of violence" means a felony offense under Federal or State law that is a crime of violence within the meaning of section 16 of title 18, United States Code.

"qualifying prisoner" means—

(A) an alien who is in this country illegally or unlawfully and who has been convicted of a crime of violence (as defined in section 924(c)(3) of title 18, United States Code) or a serious drug offense (as defined in section 924(e)(2)(A) of title 18, United States Code); and

(B) a violent criminal.

"sex offense" means an offense under Federal or State law that constitutes aggravated sexual abuse, sexual abuse, sexual abuse of a minor or ward, or abusive sexual contact within the meaning of chapter 109A of title 18, United States Code.

"violent criminal"—

(A) means a person convicted under Federal law of an offense described in, under the circumstances described in, the provisions of section 924 (c) or (e) of title 18 or section 994(h) of title 28, United States Code, or under State law for the same or a similar offense; and

(B) insofar as any of the circumstances described in an offense described in subparagraph (A) is the prior conviction of an offense, includes a person who had been adjudicated as a juvenile delinquent by reason of the commission of an act that, if committed by an adult, would constitute such an offense.

(b) CONSTRUCTION OF PRISONS.—The Attorney General shall, after consultation with state correctional administrators, construct, and operate a minimum of 10 regional prisons, situated throughout the United States, each containing space for at least 2,500 inmates. At least 75 percent of the overall capacity of such prisons in the aggregate shall be dedicated to qualifying prisoners from qualifying States.

(c) ACCEPTANCE OF PRISONERS.—Any qualifying State may apply to the Attorney General to accept any qualifying prisoner. If, in the Attorney General's judgment there are likely to be more qualifying prisoners than there is space available, then to the extent that the Attorney General deems it practicable, the Attorney General should seek to allocate space among qualifying States in a proportion similar to the number of qualifying prisoners held by that State in relation to the total number of qualifying prisoners from qualifying States.

(d) QUALIFYING STATE.—

(1) IN GENERAL.—The Attorney General shall not certify a State as a qualifying State under this section unless the State is providing—

(A) truth in sentencing with respect to any felony crime of violence involving the use or attempted use of force against a person, or use of a firearm against a person, for which a maximum sentence of 5 years or more is authorized that is consistent with that provided in the Federal system in chapter 229 of title 18, United States Code, which provides that defendants will serve at least 85 percent of the sentence ordered and which provides for a binding sentencing guideline system in which sentencing judges' discretion is limited to ensure greater uniformity in sentencing;

(B) pretrial detention similar to that provided in the Federal system under section 3142 of title 18, United States Code;

(C) sentence for firearm offenders, where death or serious bodily injury results, murderers, sex offenders, and child abuse offenders that, after application of relevant sentencing guidelines, result in the imposition of sentences that are at least as long as those imposed under Federal law (after application of relevant sentencing guidelines); and

(D) suitable recognition for the rights of victims, including consideration of their victim's perspective at all appropriate stages of criminal proceedings.

(2) DISQUALIFICATION.—The Attorney General shall withdraw a State's status as a qualifying State if the Attorney General finds that the State no longer appropriately provides for the matters described in paragraph (1) or has ceased making substantial progress toward attaining them, in which event the State shall no longer be entitled to the benefits of this section, except to the extent the Attorney General otherwise directs.

(3) WAIVER.—The Attorney General may waive, for no more than one year, any of the requirements of this subsection with respect to a particular State if the Attorney General certifies that, in the Attorney General's judgment, there are compelling law enforcement reasons for doing so. Any State granted any such waiver shall be treated as a qualifying State for all purposes of this subtitle, unless the Attorney General otherwise directs.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $600,000,000 for fiscal year 1994;
(2) $600,000,000 for fiscal year 1995;
(3) $600,000,000 for fiscal year 1996;
(4) $600,000,000 for fiscal year 1997; and
(5) $600,000,000 for fiscal year 1998.

Page 303, line 21;

Subtitle B—State Prisons

SEC. 1321. BOOT CAMPS AND PRISONS FOR VIOLENT DRUG OFFENDERS.

(a) DEFINITION.—In this section, "boot camp prison program" means a correctional program of not more than 6 months' duration involving—

(1) assignment for participation in the program, in conformity with State law, by prisoners other than prisoners who have been convicted at any time of a violent felony;

(2) adherence by inmates to a highly regimented schedule that involves strict discipline, physical training, and work;

(3) participation by inmates in appropriate education, job training, and substance abuse counseling or treatment; and

(4) aftercare services for inmates following release that are coordinated with the program carried out during the period of imprisonment.

(b) ESTABLISHMENT OF GRANT AND TECHNICAL ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Attorney General may make grants to States and to multi-State compact associations for the purposes of—

(A) developing, constructing, expanding, operating, and improving boot camp prison programs to medium security prisons;

(B) developing, constructing, and operating prisons that house and provide treatment for violent offenders with serious substance abuse problems; and

(C) assisting in activating existing boot camp or prison facilities that are unutilized or underutilized because of lack of funding.

(2) TECHNICAL ASSISTANCE.—The Attorney General may provide technical assistance to grantees under this section.

(3) UTILIZATION OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this section.

(c) STATE AND MULTI-STATE COMPACT APPLICATIONS.—

(1) IN GENERAL.—To request a grant under this section, the chief executive of a State or the coordinator of a multi-State compact association shall submit an application to the Attorney General in such form and containing such information as the Attorney General may prescribe by regulation or guidelines.

(2) CONTENT OF APPLICATION.—In accordance with the regulations or guidelines established by the Attorney General, an application for a grant under this section shall—

(A) include a long-term strategy and detailed implementation plan;

(B) include evidence of the existence of, and describe the terms of, a multi-State compact for any multiple-State plan;

(C) provide a description of any construction activities, including cost estimates, that will be a part of any plan;

(D) provide a description of the criteria for selection of prisoners for participating in a boot camp prison program or assignment to a regional prison or activated prison or boot camp facility that is to be funded;

(E) provide assurances that the boot camp prison program, regional prison, or activated prison or boot camp facility that receives funding will provide work programs, education, job training, and appropriate drug treatment for inmates;

(F) provide assurances that—

(i) prisoners who participate in a boot camp prison program or are assigned to a regional prison or activated prison or boot camp facility that receives funding will be provided with aftercare services; and

(ii) a substantial proportion of the population of any regional prison that receives funds under this section will be violent offenders with serious substance abuse problems, and provision of treatment for such offenders will be a priority element of the prison's mission;

(G) provide assurances that aftercare services will involve the coordination of the boot camp prison program, regional prison, or activated prison or boot camp facility, with other human service and rehabilitation programs (such as educational and job training programs, drug counseling or treatment, parole or other post-release supervision programs, halfway house programs, job placement programs, and participation in self-help and peer group programs) that reduce

the likelihood of further criminality by prisoners who participate in a boot camp program or are assigned to a regional prison or activated prison or boot camp facility following release;

(H) explain the applicant's inability to fund the program adequately without Federal assistance;

(I) identify related governmental and community initiatives that complement or will be coordinated with the proposal;

(J) certify that there has been appropriate coordination with all affected agencies; and

(K) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support.

(d) LIMITATIONS ON FUNDS.—

(1) NONSUPPLANTING REQUIREMENT.—Funds made available under this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

(2) ADMINISTRATIVE COSTS.—No more than 5 percent of the funds available under this section may be used for administrative costs.

(3) MATCHING FUNDS.—The portion of the costs of a program provided by a grant under this section may not exceed 75 percent of the total cost of the program as described in the application.

(4) DURATION OF GRANTS.—

(A) IN GENERAL.—A grant under this section may be renewed for up to 3 years beyond the initial year of funding if the applicant demonstrates satisfactory progress toward achievement of the objectives set out in an approved application.

(B) MULTIYEAR GRANTS.—A multiyear grant may be made under this section so long as the total duration of the grant, including any renewals, does not exceed 4 years.

(e) CONVERSION OF PROPERTY AND FACILITIES AT CLOSED OR REALIGNED MILITARY INSTALLATIONS INTO BOOT CAMP PRISONS AND REGIONAL PRISONS.—

(1) DEFINITION.—In this subsection, "base closure law" means—

(A) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note);

(B) the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note);

(C) section 2687 of title 10, United States Code; and

(D) any other similar law.

(2) DETERMINATION OF SUITABILITY FOR CONVERSION.—Notwithstanding any base closure law, the Secretary of Defense may not take any action to dispose of or transfer any real property or facility located at a military installation to be closed or realigned under a base closure law until the Secretary notifies the Attorney General of any property or facility at that installation that is suitable for use as a boot camp prison or regional prison.

(3) TRANSFER.—The Secretary shall, upon the request of the Attorney General, transfer to the Attorney General, without reimbursement, the property or facilities covered by the notification referred to in paragraph (2) in order to permit the Attorney General to utilize the property or facilities as a boot camp prison or regional prison.

(4) REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall prepare and disseminate to State and local officials a report listing any real property or facility located at a military installation to be closed or realigned under a base closure law that is suitable for use as a boot camp prison or regional prison. The Attorney General shall periodically update this report for dissemination to State and local officials.

(5) APPLICABILITY.—This subsection shall apply with respect to property or facilities located at military installations the closure or realignment of which commences after the date of enactment of this Act.

(f) PERFORMANCE EVALUATION.—

(1) EVALUATION COMPONENTS.—

(A) IN GENERAL.—Each boot camp prison, regional prison, and activated prison or boot camp facility program funded under this section shall contain an evaluation component developed pursuant to guidelines established by the Attorney General.

(B) OUTCOME MEASURES.—The evaluations required by this paragraph shall include outcome measures that can be used to determine the effectiveness of the funded programs, including the effectiveness of such programs in comparison with other correctional programs or dispositions in reducing the incidence of recidivism.

(2) PERIODIC REVIEW AND REPORTS.—

(A) REVIEW.—The Attorney General shall review the performance of each grant recipient under this section.

(B) REPORTS.—The Attorney General may require a grant recipient to submit to the Attorney General the results of the evaluations required under paragraph (1) and such other data and information as the Attorney General deems reasonably necessary to carry out the Attorney General's responsibilities under this section.

(3) REPORT TO CONGRESS.—The Attorney General shall submit an annual report to Congress describing the grants awarded under this section and providing an assessment of the operations of the programs receiving grants.

(g) REVOCATION OR SUSPENSION OF FUNDING.—If the Attorney General determines, as a result of the reviews required by subsection (f), or otherwise, that a grant recipient under this section is not in substantial compliance with the terms and requirements of an approved grant application, the Attorney General may revoke or suspend funding of the grant in whole or in part.

(h) ACCESS TO DOCUMENTS.—The Attorney General and the Comptroller General shall have access for the purpose of audit and examination to—

(1) the pertinent books, documents, papers, or records of a grant recipient under this section; and

(2) the pertinent books, documents, papers, or records of other persons and entities that are involved in programs for which assistance is provided under this section.

(i) GENERAL REGULATORY AUTHORITY.—The Attorney General may issue regulations and guidelines to carry out this section.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $2,000,000,000, to remain available until expended.

(2) USE OF APPROPRIATED FUNDS.—No more than one-third of the amounts appropriated under paragraph (1) may be used to make grants for the construction, development, and operation of regional prisons under subsection (b)(1)(B).

Subtitle C—Grants Under the Juvenile Justice and Delinquency Prevention Act of 1974

"GRANTS FOR COMMUNITY-BASED VIOLENT-JUVENILE FACILITIES

"SEC. 238. (a) IN GENERAL.—The Attorney General, through the Bureau of Prisons, may make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, and operating secure facilities for violent and chronic juvenile offenders. The mandates required by the Juvenile Justice and Delinquency Prevention Act shall not apply to grants under this subtitle authorization. There are authorized to be appropriated $100,000,000 for each of fiscal years 1994, 1995, 1996, 1997, 1998.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violence Against Women Act of 1993".

SEC. 2. TABLE OF CONTENTS.

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TITLE I—SAFE STREETS FOR WOMEN

SEC. 101. SHORT TITLE.

This title may be cited as the "Safe Streets for Women Act of 1993".

Subtitle A—Federal Penalties for Sex Crimes

SEC. 111. REPEAT OFFENDERS.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2247. Repeat offenders

"Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact have become final, is punishable by a term of imprisonment up to twice that otherwise authorized.".

(b) RECOMMENDATION BY THE SENTENCING COMMISSION.—The Sentencing Commission shall implement the amendment made by subsection (a) by recommending to the Congress amendments, if appropriate, in the sentencing guidelines applicable to chapter 109A offenses.

(c) CHAPTER ANALYSIS.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by adding at the end the following new item:

"2247. Repeat offenders.".

SEC. 112. FEDERAL PENALTIES.

(a) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend, where necessary, its sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, as follows:

(1) The Commission shall review and recommend amendments to the guidelines, if appropriate, to enhance penalties if more than 1 offender is involved in the offense.

(2) The Commission shall review and recommend amendments to the guidelines, if appropriate, to reduce unwarranted disparities between the sentences for sex offenders who are known to the victim and sentences for sex offenders who are not known to the victim.

(3) The Commission shall review and recommend amendments to the guidelines to enhance penalties, if appropriate, to render Federal penalties on Federal territory commensurate with penalties for similar offenses in the States.

(4) The Commission shall review and recommend amendments to the guidelines, if appropriate, to account for the general problem of recidivism in cases of sex offenses, the severity of the offense, and its devastating effects on survivors.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission shall review and submit to Congress a report containing an analysis of Federal rape sentencing, accompanied by comment from independent experts in the field, describing—

(1) comparative Federal sentences for cases in which the rape victim is known to the defendant and cases in which the defendant is not known to the defendant;

(2) comparative Federal sentences for cases on Federal territory and sentences in surrounding States; and

(3) an analysis of the effect of rape sentences on populations residing primarily on Federal territory relative to the impact of other Federal offenses in which the existence of Federal jurisdiction depends upon the offense's being committed on Federal territory.

SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) SEXUAL ABUSE.—(1) Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, expert witness and investigators' fees, interpretive services, and court costs; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim for the victim's other losses before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory

damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.".

(2) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2248. Mandatory restitution.".

(b) SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN.—(1) Chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2259. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, expert witness and investigators' fees, interpretive services, and court costs; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstanees of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim for the victim's other losses before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.".

(2) The table of sections for chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following:

"2259. Mandatory restitution.".

SEC. 114. AUTHORIZATION FOR FEDERAL VICTIM'S COUNSELORS.

There is authorized to be appropriated for fiscal year 1994, $1,500,000 for the United States Attorneys for the purpose of appointing Victim/Witness Counselors for the prosecution of sex crimes and domestic violence crimes where applicable (such as the District of Columbia).

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(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 4 of Public Law 102-521 (106 Stat. 3404), is amended by—

(1) redesignating part Q as part R;

(2) redesignating section 1701 as section 1801; and

(3) adding after part P the following new part:

"PART Q—Grants To Combat Violent Crimes Against Women

"SEC. 1701. PURPOSE OF THE PROGRAM AND GRANTS.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, Indian tribes, cities, and other localities to develop effective law enforcement and prosecution strategies to combat violent crimes against women and, in particular, to focus efforts on those areas with the highest rates of violent crime against women.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide additional personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

"(3) developing and implementing police and prosecution policies, protocols, or orders specifically devoted to identifying and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, prosecutions, and convictions for the crimes of sexual assault and domestic violence; and

"(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, to increase reporting and reduce attrition rates for cases involving violent crimes against women, including the crimes of sexual assault and domestic violence.

"Subpart 1—High Intensity Crime Area Grants

"SEC. 1711. HIGH INTENSITY GRANTS.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') shall make grants to areas of 'high intensity crime' against women.

"(b) DEFINITION.—For purposes of this part, 'high intensity crime area' means an area with one of the 40 highest rates of violent crime against women, as determined by the Bureau of Justice Statistics pursuant to section 1712.

"SEC. 1712. HIGH INTENSITY GRANT APPLICATION.

"(a) COMPUTATION.—Within 45 days after the date of enactment of this part, the Bureau of Justice Statistics shall compile a list of the 40 areas with the highest rates of violent crime against women based on the combined female victimization rate per population for assault, sexual assault (including, but not limited to, rape), murder, robbery, and kidnapping (without regard to the relationship between the crime victim and the offenders).

"(b) USE OF DATA.—In calculating the combined female victimization rate required by subsection (a), the Bureau of Justice Statistics may rely on—

"(1) existing data collected by States, municipalities, Indian reservations or statistical metropolitan areas showing the number of police reports of the crimes listed in subsection (a); and

"(2) existing data collected by the Federal Bureau of Investigation, including data from those governmental entities already complying with the National Incident Based Reporting System, showing the number of police reports of crimes listed in subsection (a).

"(c) PUBLICATION.—After compiling the list set forth in subsection (a), the Bureau of Justice Statistics shall convey it to the Director who shall publish it in the Federal Register.

"(d) QUALIFICATION.—Upon satisfying the terms of subsection (e), any high intensity crime area shall be qualified for a grant under this subpart upon application by the chief executive officer of the governmental entities responsible for law enforcement and prosecution of criminal offenses within the area and certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1701(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate program grants, with nongovernmental nonprofit victim services programs; and

"(3) at least 25 percent of the amount granted shall be allocated, without duplication, to each of the following three areas: prosecution, law enforcement, and victim services.

"(e) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application must provide the certifications required by subsection (d) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (d)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds;

"(C) expected results from the use of grant funds; and

"(D) demographic characteristics of the population to be served, including age, marital status, disability, race, ethnicity, and language background; and

"(2) include proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) DISBURSEMENT.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served;

"(C) give priority to areas with the greatest showing of need; and

"(D) recognize and address the needs of underserved populations.

"(g) GRANTEE REPORTING.—(1) Upon completion of the grant period under this subpart, the grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this part.

"(2) A section of the performance report shall be completed by each grantee or subgrantee performing the services contemplated in the grant application, certifying performance of the services under the grants.

"(3) The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if funds are expended for purposes other than those set forth under this subpart. Federal funds may be used to supplement, not supplant, State funds.

"Subpart 2—Other Grants to States To Combat Violent Crimes Against Women

"SEC. 1721. GENERAL GRANTS TO STATES.

"(a) GENERAL GRANTS.—The Director may make grants to States, for use by States, units of local government in the States, and nonprofit nongovernmental victim services programs in the States, for the purposes outlined in section 1701(b), and to reduce the rate of violent crimes against women.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be—

"(1) $500,000 to each State; and

"(2) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any State shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1701(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs; and

"(3) at least 25 percent of the amount granted shall be allocated, without duplication, to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application shall include the certifications of qualification required by subsection (c) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (c)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds;

"(C) expected results from the use of grant funds; and

"(D) demographic characteristics of the populations to be served, including age, marital status, disability, race, ethnicity and language background; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(e) DISBURSEMENT.—(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for

under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that States will—

"(A) give priority to areas with the greatest showing of need;

"(B) determine the amount of subgrants based on the population and geographic area to be served;

"(C) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000; and

"(D) recognize and address the needs of underserved populations.

"(f) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee and subgrantee that performed the direct services contemplated in the application, certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if funds are expended for purposes other than those set forth under this subpart. Federal funds may only be used to supplement, not supplant, State funds.

"SEC. 1722. GENERAL GRANTS TO TRIBES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1701(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of $35,000 and maximum grants of $300,000.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1701(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate with nonprofit; and

"(3) at least 25 percent of the grant funds shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—(1) Applications shall be made directly to the Director and shall contain a description of the tribes' law enforcement responsibilities for the Indian country described in the application and a description of the tribes' system of courts, including whether the tribal government operates courts of Indian offenses under section 201 of Public Law 90-284 (25 U.S.C. 1301) or part 11 of title 25, Code of Federal Regulations.

"(2) Applications shall be in such form as the Director may prescribe and shall specify the nature of the program proposed by the applicant tribe, the data and information on which the program is based, and the extent to which the program plans to use or incorporate existing victim services available in the Indian country where the grant will be used.

"(3) The term of any grant shall be for a minimum of 3 years.

"(e) GRANTEE REPORTING.—At the end of the first 12 months of the grant period and at the end of each year thereafter, the Indian tribal grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee or subgrantee that performed the direct services contemplated in the application, certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if funds are expended for purposes other than those set forth under this subpart. Federal funds may only be used to supplement, not supplant, State funds.

"(f) DEFINITIONS.—(1) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

"(2) The term 'Indian country' has the meaning stated in section 1151 of title 18, United States Code.

"Subpart 3—General Terms and Conditions

"SEC. 1731. GENERAL DEFINITIONS.

"As used in this part—

"(1) the term 'victim services' means any nongovernmental nonprofit organization that assists victims, including rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process;

"(2) the term 'prosecution' means any public agency charged with direct responsibility for prosecuting criminal offenders, including such agency's component bureaus (such as governmental victim/witness programs);

"(3) the term 'law enforcement' means any public agency charged with policing functions, including any of its component bureaus (such as governmental victim services programs);

"(4) the term 'sexual assault' includes not only assaults committed by offenders who are strangers to the victim but also assaults committed by offenders who are known or related by blood or marriage to the victim;

"(5) the term 'domestic violence' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or committed by any other adult person upon a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies; and

"(6) the term 'underserved populations' includes populations underserved because of geographic location (such as rural isolation), underserved racial or ethnic populations, and populations underserved because of special needs, such as language barriers or physical disabilities.

"SEC. 1732. GENERAL TERMS AND CONDITIONS.

"(a) NONMONETARY ASSISTANCE.—In addition to the assistance provided under subparts 1 or 2, the Director may direct any Federal agency, with or without reimbursement, to use 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.

"(b) BUREAU REPORTING.—No later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Judiciary Committees of the House and the Senate a report that includes, for each high intensity crime area (as provided in subpart 1) and for each State and for each grantee Indian tribe (as provided in subpart 2)—

"(1) the amount of grants made under this part;

"(2) a summary of the purposes for which those grants were provided and an evaluation of their progress;

"(3) a statistical summary of persons served, detailing the nature of victimization, and providing data on age, sex, relationship of victim to offender, geographic distribution, race, ethnicity, language, and disability; and

"(4) a copy of each grantee report filed pursuant to sections 1712(g), 1721(f) and 1722(c).

"(c) REGULATIONS.—No later than 90 days after the date of enactment of this part, the Director shall publish proposed regulations implementing this part. No later than 120 days after such date, the Director shall publish final regulations implementing this part.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1994, 1995, and 1996, $100,000,000 to carry out subpart 1, and $190,000,000 to carry out subpart 2, and $10,000,000 to carry out section 1722 of subpart 2.".

(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 Q and inserting the following:

"Part Q—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"Sec. 1701. Purpose of the program and grants.

"SUBPART 1—HIGH INTENSITY CRIME AREA GRANTS

"Sec. 1711. High intensity grants.

"Sec. 1712. High intensity grant application.

"SUBPART 2—OTHER GRANTS TO STATES TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"Sec. 1721. General grants to States.

"Sec. 1722. General grants to tribes.

"SUBPART 3—GENERAL TERMS AND CONDITIONS

"Sec. 1731. General definitions.

"Sec. 1732. General terms and conditions.

"PART R—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1801. Continuation of rules, authorities, and proceedings.".

Subtitle C—Safety for Women in Public Transit and Public Parks

SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.

Section 24 of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1620) is amended to read as follows:

"GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION

"SEC. 24. (a) GENERAL PURPOSE.—From funds authorized under section 21, not to exceed $10,000,000, the Secretary shall make

capital grants for the prevention of crime and to increase security in existing and future public transportation systems. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.

"(b) GRANTS FOR LIGHTING, CAMERA SURVEILLANCE, AND SECURITY PHONES.—

"(1) From the sums authorized for expenditure under this section for crime prevention, the Secretary is authorized to make grants and loans to States and local public bodies or agencies for the purpose of increasing the safety of public transportation by—

"(A) increasing lighting within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(B) increasing camera surveillance of areas within and adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(C) providing emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages; or

"(D) any other project intended to increase the security and safety of existing or planned public transportation systems.

"(2) From the sums authorized under this section, at least 75 percent shall be expended on projects of the type described in subsection (b)(1) (A) and (B).

"(c) REPORTING.—All grants under this section are contingent upon the filing of a report with the Secretary and the Department of Justice, Office of Victims of Crime, showing crime rates in or adjacent to public transportation before, and for a 1-year period after, the capital improvement. Statistics shall be broken down by type of crime, sex, race, ethnicity, language, and relationship of victim to the offender.

"(d) INCREASED FEDERAL SHARE.—Notwithstanding any other provision of this Act, the Federal share under this section for each capital improvement project which enhances the safety and security of public transportation systems and which is not required by law (including any other provision of this chapter) shall be 90 percent of the net project cost of such project.

"(e) SPECIAL GRANTS FOR PROJECTS TO STUDY INCREASING SECURITY FOR WOMEN.—From the sums authorized under this section, the Secretary shall provide grants and loans for the purpose of studying ways to reduce violent crimes against women in public transit through better design or operation of public transit systems.

"(f) GENERAL REQUIREMENTS.—All grants or loans provided under this section shall be subject to all the terms, conditions, requirements, and provisions applicable to grants and loans made under section 2(a).".

SEC. 132. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN NATIONAL PARKS.

Public Law 91-383 (commonly known as the National Park System Improvements in Administration Act) (16 U.S.C. 1a-1 et seq.) is amended by adding at the end the following new section:

"SEC. 13. NATIONAL PARK SYSTEM CRIME PREVENTION ASSISTANCE.

"(a) From the sums authorized pursuant to section 7 of the Land and Water Conservation Act of 1965, not to exceed $10,000,000, the Secretary of the Interior may provide Federal assistance to reduce the incidence of violent crime in the National Park System.

"(b) The Secretary shall direct the chief official responsible for law enforcement within the National Park Services to—

"(1) compile a list of areas within the National Park System with the highest rates of violent crime;

"(2) make recommendations concerning capital improvements, and other measures, needed within the National Park System to reduce the rates of violent crime, including the rate of sexual assault; and

"(3) publish the information required by paragraphs (1) and (2) in the Federal Register.

"(c) No later than 120 days after the date of enactment of this section, and based on the recommendations and list issued pursuant to subsection (b), the Secretary shall distribute funds throughout the National Park Service. Priority shall be given to those areas with the highest rates of sexual assault.

"(d) Funds provided under this section may be used for the following purposes:

"(1) To increase lighting within or adjacent to public parks and recreation areas.

"(2) To provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas.

"(3) To increase security or law enforcement personnel within or adjacent to public parks and recreation areas.

"(4) Any other project intended to increase the security and safety of public parks and recreation areas.".

SEC. 133. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC PARKS.

Section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-8) is amended by adding at the end the following new subsection:

"(h) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed $15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) fund any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding subsection (c), the Secretary may provide 70 percent improvement grants for projects undertaken by any State for the purposes outlined in this subsection. The remaining share of the cost shall be borne by the State.".

Subtitle D—Justice Department Task Force on Violence Against Women

SEC. 141. ESTABLISHMENT.

Not later than 30 days after the date of enactment of this Act, the Attorney General shall establish a task force to be known as the Attorney General's Task Force on Violence Against Women (referred to in this subtitle as the "Task Force").

SEC. 142. GENERAL PURPOSES OF TASK FORCE.

(a) GENERAL PURPOSE OF THE TASK FORCE.—The Task Force shall recommend Federal, State, and local strategies for preventing and sanctioning violent crime against women, including the enhancement and protection of the rights of the victims of such crimes.

(b) FUNCTIONS.—The Task Force shall perform such functions as the Attorney General deems appropriate to carry out the purposes of the Task Force, including—

(1) evaluating the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women and to punish those responsible for such crime;

(2) evaluating the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluating the adequacy of rules of evidence, practice and procedure to ensure the effective prosecution and conviction of violent offenders against women and to protect victims from abuse in legal proceedings, making recommendations, where necessary, to improve those rules;

(4) evaluating the adequacy of pretrial release, sentencing, incarceration, and post-conviction release for crimes that predominantly affect women, such as rape and domestic violence;

(5) evaluating the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(6) evaluating the adequacy of, and make recommendations regarding, the adequacy of State and Federal Laws on domestic violence and the need for a more uniform statutory response to domestic violence;

(7) evaluating the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crimes;

(8) assessing the issuance, formulation, and enforcement of protective orders, whether or not related to a criminal proceeding, and making recommendations for their more effective use in domestic violence and stalking cases;

(9) assessing the problem of stalking and persistent menacing and recommending effective means of response to the problem; and

(10) evaluating the adequacy of, and make recommendations regarding, the national public awareness and the public dissemination of information essential to the prevention of violent crimes against women.

SEC. 143. MEMBERSHIP.

(a) IN GENERAL.—The Task Force shall consist of up to 15 members, who shall be appointed by the Attorney General not later than 60 days after the date of enactment of this Act.

(b) REPRESENTATION.—The Attorney General shall choose members of the Task Force

based on their education, training, or experience. The Attorney General shall ensure that the Task Force includes representatives of State and local law enforcement, judicial administration, prosecution, legal experts, persons devoted to the protection of victims' rights, persons providing services to the victims of sexual assault or domestic violence, and survivors of violence.

(c) CONGRESSIONAL COMMITTEE RECOMMENDATIONS.—In making appointments to the Task Force, the Attorney General shall consider the recommendations of the chairman and ranking minority members of the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

(d) VACANCIES.—A vacancy on the Task Force shall be filled in the manner in which the original appointment was made.

SEC. 144. TASK FORCE OPERATIONS.

(a) MEETINGS.—The Task Force shall hold its first meeting on a date specified by the Attorney General, which date shall not be later than 60 days after the date of enactment of this Act. After the initial meeting, the Task Force shall meet at the call of the Attorney General, or its chairman-designate, but shall meet at least 6 times.

(b) CHAIRMAN.—Not later than 15 days after the members of the Task Force are appointed, the Attorney General shall designate a chairman from among the members of the Task Force.

(c) PAY.—Members of the Task Force who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Task Force.

(d) PER DIEM.—Except as provided in subsection (c), members of the Task Force shall be allowed travel and other expenses including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

SEC. 145. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date on which the Task Force is fully constituted under section 143, the Task Force shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) CONTENTS.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Task Force and of the findings and conclusions of the Task Force, including such recommendations for legislation and administrative action as the Task Force considers appropriate.

SEC. 146. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Task Force shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Task Force, not later than 30 days after the Chairman is selected.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable for a position above GS-15 of the General Schedule contained in title 5, United States Code.

(b) STAFF.—With the approval of the Task Force, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Task Force.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Task Force appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Task Force, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

SEC. 147. POWERS OF TASK FORCE.

(a) HEARINGS.—For the purpose of carrying out this subtitle, the Task Force may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Task Force considers appropriate. The Task Force may administer oaths before the Task Force.

(b) DELEGATION.—Any member or employee of the Task Force may, if authorized by the Task Force, take any action that the Task Force is authorized to take under this subtitle.

(c) ACCESS TO INFORMATION.—The Task Force may request directly from any executive department or agency such information as may be necessary to enable the Task Force to carry out this subtitle, on the request of the Chairman of the Task Force.

(d) MAILS.—The Task Force may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 148. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $500,000 for fiscal year 1994.

SEC. 149. TERMINATION.

The Task Force shall cease to exist 30 days after the date on which its final report is submitted under section 144.

Subtitle E—New Evidentiary Rules

SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

(a) RULE.—The Federal Rules of Evidence are amended by inserting after rule 412 the following new rule:

"Rule 412A. Evidence of victim's past behavior in other criminal cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other law, in a criminal case, other than a sex offense case governed by rule 412, reputation or opinion evidence of the past sexual behavior of an alleged victim is not admissible.

"(b) ADMISSIBILITY.—Notwithstanding any other law, in a criminal case, other than a sex offense case governed by rule 412, evidence of an alleged victim's past sexual behavior (other than reputation and opinion evidence) may be admissible if—

"(1) the evidence is admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of the evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the alleged victim's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the alleged victim.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At the hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence is amended by inserting after the item relating to rule 412 the following new item:

"412A. Evidence of victim's past behavior in other criminal cases:

"(a) Reputation and opinion evidence excluded.

"(b) Admissibility.

"(c) Procedures.".

SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

(a) RULE.—The Federal Rules of Evidence, as amended by section 151, are amended by adding after rule 412A the following new rule:

"Rule 412B. Evidence of past sexual behavior in civil cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other law, in a civil case in which a defendant is accused of actionable sexual misconduct, reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

"(b) ADMISSIBLE EVIDENCE.—Notwithstanding any other law, in a civil case in which a defendant is accused of actionable sexual misconduct, evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

"(1) it is admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of the evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the plaintiff's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either

that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the plaintiff.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At the hearing, the parties may call witnesses, including the plaintiff and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence that the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for the purpose, shall accept evidence on the issue of whether the condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2) that the evidence the defendant seeks to offer is relevant and not excluded by any other evidentiary rule, and that the probative value of the evidence outweighs the danger of unfair prejudice, the evidence shall be admissible in the trial to the extent an order made by the court specifies evidence that may be offered and areas with respect to which the plaintiff may be examined or cross-examined. In its order, the court should consider—

"(A) the chain of reasoning leading to its finding of relevance; and

"(B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.

"(d) DEFINITIONS.—For purposes of this rule, a case involving a claim of actionable sexual misconduct, includes sexual harassment or sex discrimination claims brought pursuant to title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)) and gender bias claims brought pursuant to title III of the Violence Against Women Act of 1993.".

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence, as amended by section 151, is amended by inserting after the item relating to rule 412A the following new item:

"412B. Evidence of past sexual behavior in civil cases:
"(a) Reputation and opinion evidence excluded.
"(b) Admissible evidence.
"(c) Procedures.
"(d) Definitions.".

SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.

(a) RULE.—Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end the following new subdivisions:

"(e) INTERLOCUTORY APPEAL.—Notwithstanding any other law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

"(f) RULE OF RELEVANCE AND PRIVILEGE.—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim."; and

(2) by adding at the end of subdivision (c)(3) the following: "In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence is amended by adding at the end the item relating to rule 412 the following:

"(e) Interlocutory appeal.
"(f) Rule of relevance and privilege.".

SEC. 154. EVIDENCE OF CLOTHING.

(a) RULE.—The Federal Rules of Evidence, as amended by section 152, are amended by adding after rule 412B the following new rule:

"Rule 413. Evidence of victim's clothing as inciting violence

"Notwithstanding any other law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged.".

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence, as amended by section 152, is amended by inserting after the item relating to rule 412B the following new item:

"413. Evidence of victim's clothing as inciting violence.".

Subtitle F—Assistance to Victims of Sexual Assault

SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended by adding at the end the following new section:

"SEC. 1910A. USE OF ALLOTMENTS FOR RAPE PREVENTION EDUCATION.

"(a) PERMITTED USE.—Notwithstanding section 1904(a)(1), amounts transferred by the State for use under this part may be used for rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities, which programs may include—

"(1) educational seminars;

"(2) the operation of hotlines;

"(3) training programs for professionals;

"(4) the preparation of informational materials; and

"(5) other efforts to increase awareness of the facts about, or to help prevent, sexual assault, including efforts to increase awareness in underserved racial, ethnic, and language minority communities.

"(b) TARGETING OF EDUCATION PROGRAMS.—States providing grant monies must ensure that at least 25 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $65,000,000 for each of fiscal years 1994, 1995, and 1996.

"(d) LIMITATION.—Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) DEFINITION.—For purposes of this section, the term 'rape prevention and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim.

"(f) TERMS.—States shall be allotted funds under this section pursuant to the terms of sections 1902 and 1903, and subject to the conditions provided in this section and sections 1904 through 1909.".

SEC. 162. RAPE EXAM PAYMENTS.

(a) No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1993 unless the State or other grantee incurs the full cost of forensic medical exams for victims of sexual assault. A State or other grantee does not incur the full medical cost of forensic medical exams if it chooses to reimburse the victim after the fact unless the reimbursement program waives any minimum loss or deductible requirement, provides victim reimbursement within a reasonable time (90 days), permits applications for reimbursement within one year from the date of the exam, and provides information to all subjects of forensic medical exams about how to obtain reimbursement.

(b) Within 90 days after the enactment of this Act, the Director of the Office of Victims of Crime shall propose regulations to implement this section, detailing qualified programs. Such regulations shall specify the type and form of information to be provided victims, including provisions for multilingual information, where appropriate.

SEC. 163. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ABUSE OF FEMALE RUNAWAY, HOMELESS, AND STREET YOUTH.

Part A of the Runaway and Homeless Youth Act (42 U.S.C. 5711 et seq.) is amended by—

(1) redesignating sections 316 and 317 as sections 317 and 318, respectively; and

(2) inserting after section 315 the following new section:

"GRANTS FOR PREVENTION OF SEXUAL ABUSE AND EXPLOITATION

"SEC. 316. (a) IN GENERAL.—The Secretary shall make grants under this section to private, nonprofit agencies for street-based outreach and education, including treatment, counseling, and information and referral, for female runaway, homeless, and street youth who have been subjected to or are at risk of being subjected to sexual abuse.

"(b) PRIORITY.—In selecting among applicants for grants under subsection (a), the Secretary shall give priority to agencies that have experience in providing services to female runaway, homeless, and street youth.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 1994, 1995, and 1996.

"(d) DEFINITIONS.—For the purposes of this section—

"(1) the term 'street-based outreach and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim; and

"(2) the term 'street youth' means a female less than 21 years old who spends a significant amount of time on the street or in other areas of exposure to encounters that may lead to sexual abuse.".

SEC. 164. 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 new subdivision:

"(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) the term 'victim' means any person 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 in case the victim is below the age of 18 years or incompetent; or

"(B) 1 or more family members or relatives designated by the court in case the victim is deceased or incapacitated,

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present; and

"(2) the term '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.".

TITLE II—SAFE HOMES FOR WOMEN

SEC. 201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1993".

Subtitle A—Family Violence Prevention and Services Act Amendments

SEC. 211. GRANT FOR A NATIONAL DOMESTIC VIOLENCE HOTLINE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding at the end the following new section:

"SEC. 316. NATIONAL DOMESTIC VIOLENCE HOTLINE GRANT.

"(a) IN GENERAL.—The Secretary may award a grant to a private, nonprofit entity to provide for the operation of a national, toll-free telephone hotline to provide information and assistance to victims of domestic violence.

"(b) ACTIVITIES.—Funds received by an entity under this section shall be utilized to open and operate a national, toll-free domestic violence hotline. Such funds may be used for activities including—

"(1) contracting with a carrier for the use of a toll-free telephone line;

"(2) employing, training and supervising personnel to answer incoming calls and provide counseling and referral services to callers on a 24-hour-a-day basis;

"(3) assembling, maintaining, and continually updating a database of information and resources to which callers may be referred throughout the United States; and

"(4) publicizing the hotline to potential users throughout the United States.

"(c) APPLICATION.—A grant may not be made under this section unless an application for such grant has been approved by the Secretary. To be approved by the Secretary under this subsection an application shall—

"(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register;

"(2) include a complete description of the applicant's plan for the operation of a national domestic violence hotline, including descriptions of—

"(A) the training program for hotline personnel;

"(B) the hiring criteria for hotline personnel;

"(C) the methods for the creation, maintenance and updating of a resource database; and

"(D) a plan for publicizing the availability of the hotline;

"(3) demonstrate that the applicant has nationally recognized expertise in the area of domestic violence and a record of high quality service to victims of domestic violence; and

"(4) contain such other information as the Secretary may require.

"(d) SPECIAL CONSIDERATIONS.—In considering an application under subsection (c), the Secretary shall also take into account the applicant's ability to offer multilingual services and services for the hearing impaired.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $500,000 for each of fiscal years 1994, 1995, and 1996.".

Subtitle B—Interstate Enforcement

SEC. 221. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following new chapter:

"CHAPTER 110A—VIOLENCE AGAINST SPOUSES

"Sec. 2261. Traveling to commit spousal abuse.
"Sec. 2262. Interstate violation of protection orders.
"Sec. 2263. Interim protections.
"Sec. 2264. Restitution.
"Sec. 2265. Full faith and credit given to protection orders.
"Sec. 2266. Definitions.

"§ 2261. Traveling to commit spousal abuse

"(a) IN GENERAL.—Any person who travels across a State line with the intent to injure, harass, intimidate his or her spouse or intimate partners and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner shall be punished as provided in subsection (c).

"(b) CAUSING THE CROSSING OF A STATE LINE.—Any person who causes a spouse or intimate partner to cross a State line by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner shall be punished as provided in subsection (c).

"(c) PENALTIES.—A person who violates this section shall be punished as follows:

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; if serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States), by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

"(5) In a case not described in paragraph (1), (2), (3), or (4), by fine under this title or imprisonment for not more than 5 years, or both.

"(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) does not require a showing of the specific intent to violate the law of a State.

"(e) NO PRIOR STATE ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction or a prior civil protection order issued under State law to initiate Federal prosecution.

"§ 2262. Interstate violation of protection orders

"(a) IN GENERAL.—Any person against whom a valid protection order has been entered who—

"(1) travels across a State line with the intent to injure, harass, intimidate, or contact a spouse or intimate partner; and

"(2) commits an act that injures, harasses, or intimidates a spouse or intimate partner or otherwise violates a valid protection order issued by a State,

shall be punished as provided in subsection (c).

"(b) CAUSING THE CROSSING OF A STATE LINE.—Any person who causes a spouse or intimate partner to cross a State line by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c).

"(c) PENALTIES.—A person who violates this section shall be punished as follows:

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; if serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than 6 months, or both.

"(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States), by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

"(6) In a case not described in paragraph (1), (2), (3), (4), or (5), by fine under this title or imprisonment for not more than 5 years, or both.

"(d) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) does not require a showing of the specific intent to violate a protection order or the law of any State.

"(e) NO PRIOR STATE ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to initiate Federal prosecution.

"§ 2263. Pretrial release of defendant

"In any proceeding pursuant to section 3142 of this title for the purpose of determining whether a defendant charged under this section shall be released pending trial, or for the purpose of determining conditions of such release, the alleged victim shall be

given an opportunity to be heard regarding the danger posed by the defendant.

"§ 2264. Restitution

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding section 3663, the court shall order restitution to the victim of an offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) An order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) A restitution order under this section is mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

"(4)(A) Notwithstanding paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the offender, including obligations to dependents.

"(B) An order under this section may direct the defendant to make a single lump-sum payment, or partial payments at specified intervals. The order shall provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(C) If the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim for the victim's other losses before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this subsection, shall be in camera in the judge's chambers.

"(4) If the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such an order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) RESTITUTION AND CRIMINAL PENALTIES.—An award of restitution to the victim of an offense under this chapter shall not be a substitute for imposition of punishment under sections 2261 and 2262.

"(e) DEFINITIONS.—For purposes of this section, the term 'victim' includes the person harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such a representative or guardian.

"§ 2265. Full faith and credit given to protection orders

"(a) FULL FAITH AND CREDIT.—Any protection order issued consistent with subsection (b) by the court of 1 State (the issuing State) shall be accorded full faith and credit by the court of another State (the enforcing State) and enforced as if it were the order of the enforcing State.

"(b) PROTECTION ORDER.—(1) A protection order issued by a State court is consistent with this subsection if—

"(A) the court has jurisdiction over the parties and matter under the law of the State; and

"(B) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process.

"(2) In the case of an order under paragraph (1) that is issued ex parte, notice and opportunity to be heard shall be provided within the time required by State law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

"(c) CROSS- OR COUNTER-PETITION.—A protection order issued by a State court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

"(1) no cross- or counter-petition, complaint, or other written pleading was filed seeking such a protection order; or

"(2) if a cross- or counter-petition has been filed, if the court did not make specific findings that each party was entitled to such an order.

"§ 2266. Definitions

"As used in this chapter—

"(1) the term 'spouse or intimate partner' includes—

"(A) a present or former spouse, a person who shares a child in common with an abuser, and a person who cohabits or has cohabited with an abuser as a spouse; and

"(B) any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides, or any other adult person who is protected from an abuser's acts under the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

"(2) the term 'protection order' includes an injunction or other order issued for the purpose of preventing violent or threatening acts by 1 spouse against his or her spouse or intimate partner, including a temporary or final order issued by a civil or criminal court (other than a support or child custody order or provision) whether obtained by filing an independent action or as a pendente lite order in another proceeding, so long as, in the case of a civil order, the order was issued in response to a complaint, petition, or motion filed by or on behalf of an abused spouse or intimate partner;

"(3) the term 'act that injures' includes any act, except one done in self-defense, that results in physical injury or sexual abuse;

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

"(5) the term 'travel across a State line' includes any travel except travel across a State line by an Indian tribal member when that member remained at all times on tribal lands.".

(b) TECHNICAL AMENDMENT.—The part analysis for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following new item:

"110A. Violence against spouses ... 2261.".

Subtitle C—Arrest in Spousal Abuse Cases

SEC. 231. ENCOURAGING ARREST POLICIES.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by section 211, is amended by adding at the end the following new section:

"SEC. 317. ENCOURAGING ARREST POLICIES.

"(a) PURPOSE.—To encourage States, Indian tribes and localities to treat spousal violence as a serious violation of criminal law, the Secretary may make grants to eligible States, Indian tribes, municipalities, or local government entities for the following purposes:

"(1) To implement pro-arrest programs and policies in police departments and to improve tracking of cases involving spousal abuse.

"(2) To centralize police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges.

"(3) To coordinate computer tracking systems to ensure communication between police, prosecutors, and both criminal and family courts.

"(4) To educate judges in criminal and other courts about spousal abuse and to improve judicial handling of such cases.

"(b) ELIGIBILITY.—(1) Eligible grantees are those States, Indian tribes, municipalities or other local government entities that—

"(A) demonstrate, through arrest and conviction statistics, that their laws or policies have been effective in significantly increasing the number of arrests made of spouse abusers;

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed; or

"(ii) permit warrantless arrests of spouse abusers, encourage the use of that authority, and mandate arrest of spouses violating the terms of a valid and outstanding protection order;

"(C) demonstrate that their laws, policies, practices and training programs discourage 'dual' arrests of abused and abuser;

"(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protection order, and require findings of mutual aggression to issue mutual protection orders in cases where both parties file a claim; *and*

"(E) certify that their laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony spouse abuse offense, that the abused bear the costs associated with the filing of criminal charges or the service of such charges on an abuser; or that the abused bear the costs associated with the issuance or service of a warrant, protection order or witness subpoena.

"(2) For purposes of this section—

"(A) the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including a temporary or final order issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding; and

"(B) the term 'spousal or spouse abuse' includes a felony or misdemeanor offense committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabited with the victim as a spouse, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or committed by any other adult person upon a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(3) The eligibility requirements provided in this section shall take effect on the date that is 1 year after the date of enactment of this section.

"(c) DELEGATION AND AUTHORIZATION.—The Secretary shall delegate to the Attorney General of the United States the Secretary's responsibilities for carrying out this section. There are authorized to be appropriated not in excess of $25,000,000 for each fiscal year to be used for the purpose of making grants under this section.

"(d) APPLICATION.—An eligible grantee shall submit an application to the Secretary. Such an application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribe, municipality, or local government entity that the conditions of subsection (b) are met;

"(2) describe the entity's plans to further the purposes listed in subsection (a);

"(3) identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(4) identify and include documentation showing the nonprofit nongovernmental victim services programs that will be consulted in developing, and implementing, the program.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a grantee that—

"(1) does not currently provide for centralized handling of cases involving spousal or family violence in any one of the areas listed in this subsection—police, prosecutors, and courts; and

"(2) demonstrates a commitment to strong enforcement of laws, and prosecution of cases, involving spousal or family violence.

"(f) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described in subsection (d)(2) and containing such additional information as the Secretary may prescribe.

"(g) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.".

Subtitle D—Domestic Violence, Family Support, and Shelter Grants

SEC. 241. DOMESTIC VIOLENCE AND FAMILY SUPPORT GRANT PROGRAM.

(a) PURPOSE.—The purpose of this section is to strengthen and improve State and local efforts to prevent and punish domestic violence and other criminal and unlawful acts that particularly affect women, and to assist and protect the victims of such crimes and acts.

(b) AUTHORIZATION OF GRANTS.—The Secretary of Health and Human Services shall make grants to support projects and programs relating to domestic violence and other criminal and unlawful acts that particularly affect women, including support of—

(1) training and policy development programs for law enforcement officers and prosecutors concerning the investigation and prosecution of domestic violence;

(2) law enforcement and prosecutorial units and teams that target domestic violence;

(3) model, innovative, and demonstration law enforcement programs relating to domestic violence that involve pro-arrest and aggressive prosecution policies;

(4) model, innovative, and demonstration programs for the effective utilization and enforcement of protective orders;

(5) programs addressing stalking and persistent menacing;

(6) victim services programs for victims of domestic violence;

(7) educational and informational programs relating to domestic violence;

(8) resource centers providing information, technical assistance, and training to domestic violence service providers, agencies, and programs;

(9) coalitions of domestic violence service providers, agencies, and programs;

(10) training programs for judges and court personnel in relation to cases involving domestic violence;

(11) enforcement of child support obligations, including cooperative efforts and arrangements of States to improve enforcement in cases involving interstate elements; and

(12) shelters that provide services for victims of domestic violence and related programs.

(c) FORMULA GRANTS.—Of the amount appropriated in each fiscal year for grants under this section, other than the amount set aside to carry out subsection (d)—

(1) 1 percent shall be set aside for each participating State; and

(2) the remainder shall be allocated to the participating States in proportion to their populations;

for the use of State and local governments in the States.

(d) DISCRETIONARY GRANTS.—Of the amount appropriated in each fiscal year, 20 percent shall be set aside in a discretionary fund to provide grants to public and private agencies to further the purposes and objectives set forth in subsections (a) and (b).

(e) APPLICATION FOR FORMULA GRANTS.—To request a grant under subsection (c), the chief executive officer of a State must, in each fiscal year, submit to the Secretary a plan for addressing domestic violence and other criminal and unlawful acts that particularly affect women in the State, including a specification of the uses to which funds provided under subsection (c) will be put in carrying out the plan. The application must include—

(1) certification that the Federal funding provided will be used to supplement and not supplant State and local funds;

(2) certification that any requirement of State law for review by the State legislature or a designated body, and any requirement of State law for public notice and comment concerning the proposed plan, have been satisfied; and

(3) provisions for fiscal control, management, recordkeeping, and submission of reports in relation to funds provided under this section that are consistent with requirements prescribed for the program.

(f) CONDITIONS ON GRANTS.—

(1) MATCHING FUNDS.—Grants under subsection (c) may be for up to 50 percent of the overall cost of a project or program funded. Discretionary grants under subsection (d) may be for up to 100 percent of the overall cost of a project or program funded.

(2) DURATION OF GRANTS.—Grants under subsection (c) may be provided in relation to a particular project or program for up to an aggregate maximum period of 4 years.

(3) LIMIT ON ADMINISTRATIVE COSTS.—Not more than 5 percent of a grant under subsection (c) may be used for costs incurred to administer the grant.

(g) EVALUATION.—The Secretary shall have the authority to carry out evaluations of programs funded under this section. The recipient of any grant under this section may be required to include an evaluation component to determine the effectiveness of the project or program funded that is consistent with guidelines issued by the Secretary.

(h) REPORT.—The Secretary shall submit an annual report to Congress concerning the operation and effectiveness of the program under this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $100,000,000 for each of fiscal years 1994, 1995, and 1996; and

(2) such sums as are necessary for each fiscal year thereafter.

(j) AUTHORIZATION OF APPROPRIATIONS FOR THE FAMILY VIOLENCE PREVENTION AND SERVICES ACT.—Section 310(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10409(a)) is amended to read as follows:

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title $85,000,000 for fiscal year 1994, $100,000,000 for fiscal year 1995, and $125,000,000 for fiscal year 1996.".

Subtitle E—Family Violence Prevention and Services Act Amendments

SEC. 251. GRANTEE REPORTING.

(a) SUBMISSION OF APPLICATION.—Section 303(a)(2)(C) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(2)(C)) is amended by inserting "and a plan to address the needs of underserved populations, including populations underserved because of ethnic, racial, cultural, language diversity or geographic isolation" after "such State".

(b) APPROVAL OF APPLICATION.—Section 303(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)) is amended by adding at the end the following new paragraph:

"(4) Upon completion of the activities funded by a grant under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee or subgrantee that performed the direct services contemplated in the application certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if the funds are expended for purposes other than those set forth under this subpart, after following the procedures set forth in paragraph (3). Federal funds may be used only to supplement, not supplant, State funds.".

Subtitle F—Youth Education and Domestic Violence

SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by section 231, is amended by adding at the end the following new section:

"SEC. 318. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

"(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate the Secretary's powers to the Secretary of Education (hereafter in this section referred to as the 'Secretary'). The Secretary shall select, implement and evaluate 4 model programs for education of young people about domestic violence and violence among intimate partners.

"(b) NATURE OF PROGRAM.—The Secretary shall select, implement and evaluate separate model programs for 4 different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. The model programs shall be selected, implemented, and evaluated in the light of the comments of educational experts, legal and psychological experts on battering, and victim advocate organizations such as battered women's shelters, State coalitions and resource centers. The participation of each of those groups or individual consultants from such groups is essential to the selection, implementation, and evaluation of programs that meet both the needs of educational institutions and the needs of the domestic violence problem.

"(c) REVIEW AND DISSEMINATION.—Not later than 2 years after the date of enactment of this section, the Secretary shall transmit the design and evaluation of the model programs, along with a plan and cost estimate for nationwide distribution, to the relevant committees of Congress for review.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $400,000 for fiscal year *1994*.".

Subtitle G—Confidentiality for Abused Persons

SEC. 271. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.

Not later than 90 days after enactment of this Act, the United States Postal Service shall promulgate regulations to secure the confidentiality of domestic violence shelters and abused persons' addresses consistent with the following guidelines:

(1) Confidentiality shall be provided to a person upon the presentation to an appropriate postal official of a valid court order or a police report documenting abuse.

(2) Confidentiality shall be provided to any domestic violence shelter upon presentation to an appropriate postal authority of proof from a State domestic violence coalition (within the meaning of section 311 of the Family Violence Prevention and Services Act (42 U.S.C. 10410)) verifying that the organization is a domestic violence shelter.

(3) Disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited.

(4) Compilations of addresses existing at the time the order is presented to an appropriate postal official shall be excluded from the scope of the proposed regulations.

Subtitle H—Technical Amendments

SEC. 281. DEFINITIONS.

Section 309(5)(B) of the Family Violence Prevention and Services Act (42 U.S.C. 10408(5)(B)) is amended by inserting "or other supportive services" before "by peers individually or in groups,".

SEC. 282. SPECIAL ISSUE RESOURCE CENTERS.

(a) GRANTS.—Section 308(a)(2) of the Family Violence Prevention and Services Act (42 U.S.C. 10407(a)(2)) is amended by striking "six" and inserting "seven".

(b) FUNCTIONS.—Section 308(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10407(c)) is amended—

(1) by striking the period at the end of paragraph (6) and inserting ", including the issuance and enforcement of protection orders."; and

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

"(7) Providing technical assistance and training to State domestic violence coalitions.".

SEC. 283. STATE DOMESTIC VIOLENCE COALITIONS.

Section 311(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10410(a)) is amended—

(1) by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (3), (4), and (5);

(2) by inserting before paragraph (2), as redesignated by paragraph (1), the following new paragraph:

"(1) working with local domestic violence programs and providers of direct services to encourage appropriate responses to domestic violence within the State, including—

"(A) training and technical assistance for local programs and professionals working with victims of domestic violence;

"(B) planning and conducting State needs assessments and planning for comprehensive services;

"(C) serving as an information clearinghouse and resource center for the State; and

"(D) collaborating with other governmental systems which affect battered women;";

(3) in paragraph (2)(K), as redesignated by paragraph (1), by striking "and court officials and other professionals" and inserting ", judges, court officers and other criminal justice professionals,";

(4) in paragraph (3), as redesignated by paragraph (1)—

(A) by inserting ", criminal court judges," after "family law judges," each place it appears;

(B) in subparagraph (F), by inserting "custody" after "temporary"; and

(C) in subparagraph (H), by striking "supervised visitations that do not endanger victims and their children," and inserting "supervised visitations or denial of visitation to protect against danger to victims or their children"; and

(5) in paragraph (4), as redesignated by paragraph (1), by inserting ", including information aimed at underserved racial, ethnic or language-minority populations" before the semicolon.

Subtitle I—Data and Research

SEC. 291. RESEARCH AGENDA.

(a) REQUEST FOR CONTRACT.—The Director of the National Institute of Justice shall request the National Academy of Sciences, through its National Research Council, to enter into a contract to develop a research agenda to increase the understanding and control of violence against women, including rape and domestic violence. In furtherance of the contract, the National Academy shall convene a panel of nationally recognized experts on violence against women, in the fields of law, medicine, criminal justice and the social sciences. In setting the agenda, the Academy shall focus primarily upon preventive, educative, social, and legal strategies. Nothing in this section shall be construed to invoke the terms of the Federal Advisory Committee Act.

(b) DECLINATION OF REQUEST.—If the National Academy of Sciences declines to conduct the study and develop a research agenda, it shall recommend a nonprofit private entity that is qualified to conduct such a study. In that case, the Director of the National Institute of Justice shall carry out subsection (a) through the nonprofit private entity recommended by the Academy. In either case, whether the study is conducted by the National Academy of Sciences or by the nonprofit group it recommends, the funds for the contract shall be made available from sums appropriated for the conduct of research by the National Institute of Justice.

(c) REPORT.—The Director of the National Institute of Justice shall ensure that no later than 9 months after the date of enactment of this Act, the study required under subsection (a) is completed and a report describing the findings made is submitted to the Committee on the Judiciary of the House of Representatives, the Committee on the Judiciary of the Senate, and the Attorney General's Task Force on Violence Against Women.

SEC. 292. STATE DATABASES.

(a) IN GENERAL.—The National Institute of Justice, in conjunction with the Bureau of Justice Statistics, shall study and report to the States and to Congress on how the States may collect centralized databases on the incidence of domestic violence offenses within a State.

(b) CONSULTATION.—In conducting its study, the National Institute of Justice shall consult persons expert in the collection of criminal justice data, State statistical administrators, law enforcement personnel, and nonprofit nongovernmental agencies that provide direct services to victims of domestic violence. The Institute's final report shall set forth the views of the persons consulted on the Institute's recommendations.

(c) REPORT.—The Director of the National Institute of Justice shall ensure that no later than 9 months after the date of enactment of this Act, the study required under subsection (a) is completed and a report describing the findings made is submitted to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized such sums as are necessary to carry out this section.

SEC. 293. NUMBER AND COST OF INJURIES.

(a) STUDY.—The Secretary of Health and Human Services, acting through the Centers for Disease Control Injury Control Division, shall conduct a study to obtain a national projection of the incidence of injuries resulting from domestic violence, the cost of injuries to health care facilities, and recommend health care strategies for reducing the incidence and cost of such injuries.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000 for fiscal year *1994*.

TITLE III—CIVIL RIGHTS

SEC. 301. SHORT TITLE.

This title may be cited as the "Civil Rights Remedies for Gender-Motivated Violence Act".

SEC. 302. CIVIL RIGHTS.

(a) FINDINGS.—The Congress finds that—

(1) crimes motivated by the victim's gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender;

(2) current law provides a civil rights remedy for gender crimes committed in the workplace, but not for gender crimes committed on the street or in the home;

(3) State and Federal criminal laws do not adequately protect against the bias element of gender-motivated crimes, which separates these crimes from acts of random violence, nor do those laws adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests;

(4) existing bias and discrimination in the criminal justice system often deprives victims of gender-motivated crimes of equal protection of the laws and the redress to which they are entitled;

(5) gender-motivated violence has a substantial adverse effect on interstate commerce, by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business, and in places involved, in interstate commerce;

(6) gender-motivated violence has a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products;

(7) a Federal civil rights action as specified in this section is necessary to guarantee equal protection of the laws and to reduce the substantial adverse effects of gender-motivated violence on interstate commerce; and

(8) victims of gender-motivated violence have a right to equal protection of the laws, including a system of justice that is unaffected by bias or discrimination and that, at every relevant stage, treats such crimes as seriously as other violent crimes.

(b) RIGHT TO BE FREE FROM CRIMES OF VIOLENCE.—All persons within the United States shall have the right to be free from crimes of violence motivated by gender (as defined in subsection (d)).

(c) CAUSE OF ACTION.—A person (including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State) who commits a crime of violence motivated by gender and thus deprives another of the right declared in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as a court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means a crime of violence committed because of gender or on the basis of gender; and due, at least in part, to an animus based on the victim's gender;

(2) the term "crime of violence" means—

(A) an act or series of acts that would constitute a felony against the person or that would constitute a felony against property if the conduct presents a serious risk of physical injury to another, and that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States; and

(B) includes an act or series of acts that would constitute a felony described in subparagraph (A) but for the relationship between the person who takes such action and the individual against whom such action is taken.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be motivated by gender (within the meaning of subsection (d)).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the elements of a cause of action under subsection (c).

(3) CONCURRENT JURISDICTION.—The Federal and State courts shall have concurrent jurisdiction over actions brought pursuant to this title.

(4) PENDENT JURISDICTION.—Neither section 1367 of title 28, United States Code, nor subsection (c) of this section shall be construed, by reason of a claim arising under such subsection, to confer on the courts of the United States jurisdiction over any State law claim seeking the establishment of a divorce, alimony, equitable distribution of marital property, or child custody decree.

(5) LIMITATION ON REMOVAL.—Section 1445 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(d) A civil action in any State court arising under section 302 of the Violence Against Women Act of 1993 may not be removed to any district court of the United States.".

SEC. 303. ATTORNEY'S FEES.

Section 722 of the Revised Statutes (42 U.S.C. 1988) is amended in the last sentence—

(1) by striking "or" after "Public Law 92-318,"; and

(2) by inserting ", or title III of the Violence Against Women Act of 1993," after "1964".

SEC. 304. SENSE OF THE SENATE CONCERNING PROTECTION OF THE PRIVACY OF RAPE VICTIMS.

(a) FINDINGS AND DECLARATION.—The Congress finds and declares that—

(1) there is a need for a strong and clear Federal response to violence against women, particularly with respect to the crime of rape;

(2) rape is an abominable and repugnant crime, and one that is severely underreported to law enforcement authorities because of its stigmatizing nature;

(3) the victims of rape are often further victimized by a criminal justice system that is insensitive to the trauma caused by the crime and are increasingly victimized by news media that are insensitive to the victim's emotional and psychological needs;

(4) rape victims' need for privacy should be respected;

(5) rape victims need to be encouraged to come forward and report the crime of rape without fear of being revictimized through involuntary public disclosure of their identities;

(6) rape victims need a reasonable expectation that their physical safety will be protected against retaliation or harassment by an assailant;

(7) the news media should, in the exercise of their discretion, balance the public's interest in knowing facts reported by free news media against important privacy interests of a rape victim, and an absolutist view of the public interest leads to insensitivity to a victim's privacy interest; and

(8) the public's interest in knowing the identity of a rape victim is small compared with the interests of maintaining the privacy of rape victims and encouraging rape victims to report and assist in the prosecution of the crime of rape.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that news media, law enforcement officers, and other persons should exercise restraint and respect a rape victim's privacy by not disclosing the victim's identity to the general public or facilitating such disclosure without the consent of the victim.

TITLE IV—SAFE CAMPUSES FOR WOMEN

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

Section 1541(i) of the Higher Education Amendments of 1992 (20 U.S.C. 1145h(i)) is amended to read as follows:

"(i) For the purpose of carrying out this part, there are authorized to be appropriated $20,000,000 for fiscal year 1994 and such sums as are necessary for fiscal years 1995, 1996, and 1997.".

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT

SECTION 501. SHORT TITLE.

This title may be cited as the "Equal Justice for Women in the Courts Act of 1993".

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

SEC. 511. GRANTS AUTHORIZED.

The State Justice Institute may award grants for the purpose of developing, testing, presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

SEC. 512. TRAINING PROVIDED BY GRANTS.

Training provided pursuant to grants made under this subtitle may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses, sentencing, and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that may subject victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims of rape, sexual assault, and incest may refuse to testify against a defendant;

(10) the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' inability to leave the batterer, to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel, and the legitimate reasons why victims of domestic violence may refuse to testify against a defendant;

(18) the need for orders of protection, and the implications of mutual orders of protection, dual arrest policies, and mediation in domestic violence cases;

(19) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims; and

(20) current information on the impact of pornography on crimes against women, or data on other activities that tend to degrade women.

SEC. 513. COOPERATION IN DEVELOPING PROGRAMS IN MAKING GRANTS UNDER THIS TITLE.

The State Justice Institute shall ensure that model programs carried out pursuant to grants made under this subtitle are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 514. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $600,000 for fiscal year 1994. Of amounts appropriated under this section, the State Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

SEC. 521. AUTHORIZATIONS OF CIRCUIT STUDIES; EDUCATION AND TRAINING GRANTS.

(a) STUDY.—In order to gain a better understanding of the nature and the extent of gender bias in the Federal courts, the circuit judicial councils are encouraged to conduct studies of the instances, if any, of gender bias in their respective circuits. The studies may include an examination of the effects of gender on—

(1) the treatment of litigants, witnesses, attorneys, jurors, and judges in the courts, including before magistrate and bankruptcy judges;

(2) the interpretation and application of the law, both civil and criminal;

(3) treatment of defendants in criminal cases;

(4) treatment of victims of violent crimes;

(5) sentencing;

(6) sentencing alternatives, facilities for incarceration, and the nature of supervision of probation and parole;

(7) appointments to committees of the Judicial Conference and the courts;

(8) case management and court sponsored alternative dispute resolution programs;

(9) the selection, retention, promotion, and treatment of employees;

(10) appointment of arbitrators, experts, and special masters; and

(11) the aspects of the topics listed in section 512 that pertain to issues within the jurisdiction of the Federal courts.

(b) CLEARINGHOUSE.—The Judicial Conference of the United States shall designate an entity within the Judicial branch to act as a clearinghouse to disseminate any reports and materials issued by the gender bias task forces under subsection (a) and to respond to requests for such reports and materials. The gender bias task forces shall provide this entity with their reports and related material.

(c) MODEL PROGRAMS.—The Federal Judicial Center, in carrying out section 620(b)(3) of title 28, United States Code, may—

(1) include in the educational programs it presents and prepares, including the training programs for newly appointed judges, information on issues related to gender bias in the courts including such areas as are listed in subsection (a) along with such other topics as the Federal Judicial Center deems appropriate;

(2) prepare materials necessary to implement this subsection; and

(3) take into consideration the findings and recommendations of the studies conducted pursuant to subsection (a), and to consult with individuals and groups with relevant expertise in gender bias issues as it prepares or revises such materials.

SEC. 522. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated—

(1) $400,000 to the Salaries and Expenses Account of the Courts of Appeals, District Courts, and other Judicial Services, to carry out section 521(a), to be available until expended through fiscal year *1995*;

(2) $100,000 to the Federal Judicial Center to carry out section 521(c) and any activities designated by the Judicial Conference under section 521(b); and

(3) such sums as are necessary to the Administrative Office of the United States Courts to carry out any activities designated by the Judicial Conference under section 521(b).

(b) THE JUDICIAL CONFERENCE OF THE UNITED STATES.—(1) The Judicial Conference of the United States Courts shall allocate funds to Federal circuit courts under this subtitle that—

(A) undertake studies in their own circuits; or

(B) implement reforms recommended as a result of such studies in their own or other circuits, including education and training.

(2) Funds shall be allocated to Federal circuits under this subtitle on a first come first serve basis in an amount not to exceed $50,000 on the first application. If within 6 months after the date on which funds authorized under this Act become available, funds are still available, circuits that have received funds may reapply for additional funds, with not more than $200,000 going to any one circuit.

TITLE VI—VIOLENCE AGAINST WOMEN ACT IMPROVEMENTS

SEC. 601. PRE-TRIAL DETENTION IN SEX OFFENSE CASES.

Section 3156(a)(4) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; or"; and

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) any felony under chapter 109A or chapter 110.".

SEC. 602. INCREASED PENALTIES FOR SEX OFFENSES AGAINST VICTIMS BELOW THE AGE OF 16.

Section 2245(2) of title 18, United States Code, 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 inserting after subparagraph (C) 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 arouse or gratify the sexual desire of any person;".

SEC. 603. PAYMENT OF COST OF HIV TESTING FOR VICTIMS IN SEX OFFENSE CASES.

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)(7)) is amended by adding at the end the following: "The Attorney General shall authorize the Director of the Office of Victims of Crime to provide for the payment of the cost of up to two tests of the victim for the

human immunodeficiency virus during the 12 months following a serious assault, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of the human immunodeficiency virus to the victim as the result of the assault.".

SEC. 604. EXTENSION AND STRENGTHENING OF RESTITUTION.

Section 3663(b) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting "including an offense under chapter 109A or chapter 110" after "an offense resulting in bodily injury to a victim";

(2) by striking "and" at the end of paragraph (3);

(3) by redesignating paragraph (4) as paragraph (5); and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in any case, reimburse the victim for lost income and 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".

SEC. 605. ENFORCEMENT OF RESTITUTION ORDERS THROUGH 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) In this subsection—

"(A) 'Federal benefits'—

"(i) means any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or 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.

"(B) '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. 606. INADMISSIBILITY OF EVIDENCE TO SHOW PROVOCATION OR INVITATION BY VICTIM IN SEX OFFENSE CASES.

(a) RULE.—The Federal Rules of Evidence, as amended by section 154, are amended by adding after rule 413 the following new rule:

"Rule 414. Inadmissibility of Evidence to Show Invitation or Provocation by Victim in Sexual Abuse Cases

"In a criminal case in which a person is accused of an offense involving conduct proscribed by chapter 109A of title 18, United States Code, evidence is not admissible to show that the alleged victim invited or provoked the commission of the offense. This rule does not limit the admission of evidence of consent by the alleged victim if the issue of consent is relevant to liability and the evidence is otherwise admissible under these rules.".

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence, as amended by section 4, is amended by inserting after the item relating to rule 413 the following new item:

"414. Inadmissibility of evidence to show invitation or provocation by victim in sexual abuse cases.".

SEC. 607. NATIONAL BASELINE STUDY ON CAMPUS SEXUAL ASSAULT.

(a) STUDY.—The Attorney General shall provide for a national baseline study to examine the scope of the problem of campus sexual assaults and the effectiveness of institutional and legal policies in addressing such crimes and protecting victims. The Attorney General may utilize the Bureau of Justice Statistics, the National Institute of Justice, and the Office for Victims of Crime in carrying out this section.

(b) REPORT.—Based on the study required by subsection (a), the Attorney General shall prepare a report including an analysis of—

(1) the number of reported allegations and estimated number of unreported allegations of campus sexual assaults, and to whom the allegations are reported (including authorities of the educational institution, sexual assault victim service entities, and local criminal authorities);

(2) the number of campus sexual assault allegations reported to authorities of educational institutions which are reported to criminal authorities;

(3) the number of campus sexual assault allegations that result in criminal prosecution in comparison with the number of non-campus sexual assault allegations that result in criminal prosecution;

(4) Federal and State laws or regulations pertaining specifically to campus sexual assaults;

(5) the adequacy of policies and practices of educational institutions in addressing campus sexual assaults and protecting victims, including consideration of—

(A) the security measures in effect at educational institutions, such as utilization of campus police and security guards, control over access to grounds and buildings, supervision of student activities and student living arrangements, control over the consumption of alcohol by students, lighting, and the availability of escort services;

(B) the articulation and communication to students of the institution's policies concerning sexual assaults;

(C) policies and practices that may prevent or discourage the reporting of campus sexual assaults to local criminal authorities, or that may otherwise obstruct justice or interfere with the prosecution of perpetrators of campus sexual assaults;

(D) the nature and availability of victim services for victims of campus sexual assaults;

(E) the ability of educational institutions' disciplinary processes to address allegations of sexual assault adequately and fairly;

(F) measures that are taken to ensure that victims are free of unwanted contact with alleged assailants, and disciplinary sanctions that are imposed when a sexual assault is determined to have occurred; and

(G) the grounds on which educational institutions are subject to lawsuits based on campus sexual assaults, the resolution of these cases, and measures that can be taken to avoid the likelihood of lawsuits and civil liability;

(6) an assessment of the policies and practices of educational institutions that are of greatest effectiveness in addressing campus sexual assaults and protecting victims, including policies and practices relating to the particular issues described in paragraph (5); and

(7) any recommendations the Attorney General may have for reforms to address campus sexual assaults and protect victims more effectively, and any other matters that the Attorney General deems relevant to the subject of the study and report required by this section.

(c) SUBMISSION OF REPORT.—The report required by subsection (b) shall be submitted to the Congress no later than September 1, 1995.

(d) DEFINITION.—For purposes of this section, "campus sexual assaults" includes sexual assaults occurring at institutions of postsecondary education and sexual assaults committed against or by students or employees of such institutions.

(e) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated $200,000 to carry out the study required by this section.

SEC. 608. REPORT ON BATTERED WOMEN'S SYNDROME.

(a) REPORT.—The Attorney General shall prepare and transmit to the Congress a report on the status of battered women's syndrome as a medical and psychological condition and on its effect in criminal trials. The Attorney General may utilize the National Institute of Justice to obtain information required for the preparation of the report.

(b) COMPONENTS OF REPORT.—The report described in subsection (a) shall include—

(1) a review of medical and psychological views concerning the existence, nature, and effects of battered women's syndrome as a psychological condition;

(2) a compilation of judicial decisions that have admitted or excluded evidence of battered women's syndrome as evidence of guilt or as a defense in criminal trials; and

(3) information on the views of judges, prosecutors, and defense attorneys concerning the effects that evidence of battered women's syndrome may have in criminal trials.

SEC. 609. REPORT ON CONFIDENTIALITY OF ADDRESSES FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) REPORT.—The Attorney General shall conduct a study of the means by which abusive spouses may obtain information concerning the addresses or locations of estranged or former spouses, notwithstanding the desire of the victims to have such information withheld to avoid further exposure to abuse. Based on the study, the Attorney General shall transmit a report to Congress including—

(1) the findings of the study concerning the means by which information concerning the addresses or locations of abused spouses may be obtained by abusers; and

(2) analysis of the feasibility of creating effective means of protecting the confidentiality of information concerning the addresses and locations of abused spouses to protect such persons from exposure to further abuse while preserving access to such information for legitimate purposes.

(b) USE OF COMPONENTS.—The Attorney General may use the National Institute of Justice and the Office for Victims of Crime in carrying out this section.

SEC. 610. REPORT ON RECORDKEEPING RELATING TO DOMESTIC VIOLENCE.

Not later than 1 year after the date of enactment of this Act, the Attorney General shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine—

(1) the efforts that have been made by the Department of Justice, including the Federal

Bureau of Investigation, to collect statistics on domestic violence; and

(2) the feasibility of requiring that the relationship between an offender and victim be reported in Federal records of crimes of aggravated assault, rape, and other violent crimes.

SEC. 611. REPORT ON FAIR TREATMENT IN LEGAL PROCEEDINGS.

Not later than 180 days after the date of enactment of this Act, the Judicial Conference of the United States shall review and make recommendations, and report to Congress, regarding the advisability of creating Federal rules of professional conduct for lawyers in Federal cases involving sexual misconduct that—

(1) protect litigants from a course of conduct intended solely for the purpose of distressing, harassing, embarrassing, burdening, or inconveniencing litigants;

(2) counsel against reliance on generalizations or stereotypes that demean, disgrace, or humiliate on the basis of gender;

(3) protect litigants from a course of conduct intended solely to increase the expense of litigation; and

(4) prohibit counsel from offering evidence that the lawyer knows to be false or from discrediting evidence the lawyer knows to be true.

SEC. 612. REPORT ON FEDERAL RULE OF EVIDENCE 404.

(a) STUDY.—Not later than 180 days after the date of enactment of this Act, the Judicial Conference shall complete a study of, and shall submit to Congress recommendations for amending, rule 404 of the Federal Rules of Evidence as it affects the admission of evidence of a defendant's prior sex crimes in cases brought pursuant to chapter 109A or other cases involving sexual misconduct.

(b) SPECIFIC ISSUES.—The study described in subsection (a) shall include—

(1) a survey of existing law on the introduction of prior similar sex crimes under State and Federal evidentiary rules;

(2) a recommendation concerning whether rule 404 should be amended to introduce evidence of prior sex crimes and, if so—

(A) whether such acts could be used to prove the defendant's propensity to act therewith; and

(B) whether evidence of prior similar sex crimes should be admitted for purposes other than to show character;

(3) a recommendation concerning whether evidence of similar acts, if admitted, should meet a threshold of similarity to the crime charged;

(4) a recommendation concerning whether evidence of similar acts, if admitted, should be limited to a certain time period (such as 10 years); and

(5) the effect, if any, of the adoption of any proposed changes on the admissibility of evidence under rule 412 of the Federal Rules of Evidence.

SEC. 613. SUPPLEMENTARY GRANTS FOR STATES ADOPTING EFFECTIVE LAWS RELATING TO SEXUAL VIOLENCE.

(a) IN GENERAL.—The Attorney General may, in each fiscal year, award an aggregate amount of up to $1,000,000 to a State that meets the eligibility requirements of subsection (b).

(b) ELIGIBILITY.—The authority to award additional funding under this section is conditional on certification by the Attorney General that the State has laws or policies relating to sexual violence that exceed or are reasonably comparable to the provisions of Federal law (including changes in Federal law made by this Act) in the following areas:

(1) Provision of training and policy development programs for law enforcement officers, prosecutors, and judges concerning the investigation and prosecution of sexual offenses.

(2) Authorization of law enforcement and prosecutorial units and teams that target sexual violence.

(3) Funding of victim services programs for victims of sexual violence.

(4) Authorization of educational and informational programs relating to sexual violence.

(5) Authorization of pretrial detention of defendants in sexual assault cases where provision of flight or the safety of others cannot be reasonably assured by other means.

(6) Authorization of serious penalties for nonconsensual sexual assault offenses.

(7) Payment of the cost of medical examinations and testing by the victim for sexually transmitted diseases.

(8) Provision of rape shield protection to ensure that victims of sexual assault are protected from inquiry into unrelated sexual behavior in sexual assault cases.

(9) Provision of rules of professional conduct intended to protect against a course of conduct intended solely for the purpose of distressing, harassing, embarrassing, burdening, or inconveniencing litigants in sexual assault cases.

(10) Authorization of the presence of the victim in the courtroom at the time of trial and provides for the victim's addressing the court concerning the sentence to be imposed.

(11) Authorization of awards of restitution to victims of sexual assaults as part of a criminal sentence.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this section.

On page 292, lines 6 and 7, strike "the prisoner" and insert "a prisoner convicted of a nonviolent offense".

On page 26, line 16, strike "$620,000,000" and insert "$1,035,000,000", and on line 17, strike "$1,040,000,000" and insert "$1,720,000,000"

On page 27, line 1, strike "$1,160,000,000" and insert "$2,070,000,000" and on line 2, strike "$1,225,000,000" and insert "$2,270,000,000" and on line 3, strike "$1,200,000,000" and insert "$1,900,000,000".

At the appropriate place in the bill, insert the following:

VIOLENT CRIME REDUCTION TRUST FUND

SEC. 1321A. PURPOSES.

The Congress declares it essential—

(1) to fully fund the control and prevention of violent crime authorized in this Act over the next 5 years.

(2) to ensure orderly limitation and reduction of Federal Government employment, as recommended by the Report of the National Performance Review, conducted by the Vice President; and

(3) to apply sufficient amounts of the savings achieved by limiting Government employment to the purpose of ensuring full funding of this Act over the next 5 years.

SEC. 1321B. REDUCTION OF FEDERAL FULL-TIME EQUIVALENT POSITIONS.

(a) DEFINITION.—For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code, but does not include the General Accounting Office.

(b) LIMITATIONS ON FULL-TIME EQUIVALENT POSITIONS.—The President, through the Office of Management and Budget (in consultation with the Office of Personnel Management), shall ensure that the total number of full-time equivalent positions in all agencies shall not exceed—

(1) 2,095,182 during fiscal year 1994;

(2) 2,044,100 during fiscal year 1995;

(3) 2,003,846 during fiscal year 1996;

(4) 1,963,593 during fiscal year 1997; and

(5) 1,923,339 during fiscal year 1998.

(c) MONITORING AND NOTIFICATION.—The Office of Management and Budget, after consultation with the Office of Personnel Management, shall—

(1) continuously monitor all agencies and make a determination on the first date of each quarter of each applicable fiscal year of whether the requirements under subsection (b) are met; and

(2) notify the President and the Congress on the first date of each quarter of each applicable fiscal year of any determination that any requirement of subsection (b) is not met.

(d) COMPLIANCE.—If at any time during a fiscal year, the Office of Management and Budget notifies the President and the Congress that any requirement under subsection (b) is not met, no agency may hire any employee for any position in such agency until the Office of Management and Budget notifies the President and the Congress that the total number of full-time equivalent positions for all agencies equals or is less than the applicable number required under subsection (b).

(e) WAIVER.—Any provision of this section may be waived upon—

(1) a determination by the President of the existence of war or a national security requirement; or

(2) the enactment of a joint resolution upon an affirmative vote of three-fifths of the Members of each House of the Congress duly chosen and sworn.

SEC. 1321C. CREATION OF VIOLENT CRIME REDUCTION TRUST FUND.

(a) ESTABLISHMENT OF THE ACCOUNT.—Chapter 11 of title 31, United States Code, is amended by inserting at the end thereof the following new section:

"§ 1115. Violent crime reduction trust fund.

"(a) There is established a separate account in the Treasury, known as the "Violent Crime Reduction Trust Fund", into which shall be deposited deficit reduction achieved by section 1321B of the Violent Crime Control and Law Enforcement Act of 1993 sufficient to fund that Act (as defined in subsection (b) of this section).

"(b) On the first day of the following fiscal years (or as soon thereafter as possible for fiscal year 1994), the following amounts shall be transferred from the general fund to the Violent Crime Reduction Trust Fund—

"(1) for fiscal year 1994, $720,000,000;

"(2) for fiscal year 1995, $2,423,000,000;

"(3) for fiscal year 1996, $4,267,000,000;

"(4) for fiscal year 1997, $6,313,000,000; and

"(5) for fiscal year 1998, $8,545,000,000.

"(c) Notwithstanding any other provision of law—

"(1) the amounts in the Violent Crime Reduction Trust Fund may be appropriated exclusively for the purposes authorized in the Violent Crime Control and Law Enforcement Act of 1993;

"(2) the amounts in the Violent Crime Reduction Trust Fund and appropriations under paragraph (1) of this section shall be excluded from, and shall not be taken into account for purposes of, any budget enforcement procedures under the Congressional Budget Act of 1974 or the Balanced Budget and Emergency Deficit Control Act of 1985; and

"(3) for purposes of this subsection, "appropriations under paragraph (1)" mean amounts of budget authority not to exceed the balances of the Violent Crime Reduction Trust Fund and amounts of outlays that flow from budget authority actually appropriated.".

(b) LISTING OF THE VIOLENT CRIME REDUCTION TRUST FUND AMONG GOVERNMENT TRUST FUNDS.—Section 1321(a) of title 31, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(91) Violent Crime Reduction Trust Fund.".

(c) REQUIREMENT FOR THE PRESIDENT TO REPORT ANNUALLY ON THE STATUS OF THE ACCOUNT.—Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof:

"(29) information about the Violent Crime Reduction Trust Fund, including a separate statement of amounts in that Trust Fund."

"(30) An analysis displaying by agency proposed reductions in full-time equivalent positions compared to the current year's level in order to comply with section 1321B of the Violent Crime Control and Law Enforcement Act of 1993.

SEC. 1321D. CONFORMING REDUCTION IN DISCRETIONARY SPENDING LIMITS.

The Director of the Office of Management and Budget shall, upon enactment of this Act, reduce the discretionary spending limits set forth in section 601(a)(2) of the Congressional Budget Act of 1974 for fiscal years 1994 through 1998 as follows:

(1) for fiscal year 1994, for the discretionary category: $720,000,000 in new budget authority and $314,000,000 in outlays;

(2) for fiscal year 1995, for the discretionary category: $2,423,000,000 in new budget authority and $2,330,000,000 in outlays;

(3) for fiscal year 1996, for the discretionary category: $4,287,000,000 in new budget authority and $4,184,000,000 in outlays;

(4) for fiscal year 1997, for the discretionary category: $6,313,000,000 in new budget authority and $6,221,000,000 in outlays;

(5) for fiscal year 1998, for the discretionary category: $8,545,000,000 in new budget authority and $8,443,000,000 in outlays.

BOXER AMENDMENT NO. 1104

Mrs. BOXER proposed an amendment to the bill S. 1607, supra; as follows:

On page 368, between lines 2 and 3, insert the following:

Subtitle D—Presidential Submit on Violence

SEC. 1731. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) violence in America has reached epidemic proportions;

(2) this epidemic reaches into communities large and small, affects the richest and the poorest among us, touches people of every ethnic and economic background, and affects all institutions, both public and private;

(3) actual violence and depictions of violence are so pervasive that they have an enormous impact on the lives and character of our children.

(4) every person, group, and institution in America has a role to play in ending the epidemic of violence; and

(5) we need a national conference in order to develop a shared understanding of the causes of violence in America and to build a national consensus on the solutions to this epidemic.

SEC. 1732. PRESIDENTIAL SUMMIT ON VIOLENCE.

Congress calls on the President to convene as soon as possible a national summit on violence in America. The President is urged to include participants from all regions of the country and all walks of life, both public and private.

DOLE AMENDMENT NO. 1105

Mr. DOLE proposed an amendment to the bill S. 1607, supra; as follows:

At the appropriate place, add the following:

SEC. 121. ADMISSIBILITY OF EVIDENCE OF SIMILAR CRIMES IN SEX OFFENSE CASES.

The Federal Rules of Evidence are amended by adding after Rule 412 the following new rules:

"Rule 413. Evidence of Similar Crimes in Sexual Assault Cases

"(a) In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and Rule 415, "offense of sexual assault" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code;

"(2) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

"(3) contact, without consent, between the genitals or anus of the defendant and any part of another person's body;

"(4) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(5) an attempt or conspiracy to engage in conduct described in paragraphs (1)–(4).

"Rule 414. Evidence of Similar Crimes in Child Molestation Cases

"(a) In a criminal case in which the defendant is accused of an offense of child molestation, evidence of the defendant's commission of another offense or offenses of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and Rule 415, "child" means a person below the age of fourteen, and "offense of child molestation" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code, that was committed in relation to a child;

"(2) any conduct proscribed by chapter 110 of title 18, United States Code;

"(3) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(4) contact between the genitals or anus of the defendant and any part of the body of a child;

"(5) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

"(6) an attempt or conspiracy to engage in conduct described in a paragraphs (1)–(5).

"Rule 415. Evidence of Similar Act in Civil Cases Concerning Sexual Assault or Child Molestation

"(a) In a civil case in which a claim for damages or other relief is predicated on a party's alleged commission of conduct constituting an offense of sexual assault or child molestation, evidence of that party's commission of another offense or offenses of sexual assault or child molestation is admissible and may be considered as provided in Rule 413 and Rule 414 of these rules.

"(b) A party who intends to offer evidence under this Rule shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trail or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule."

COMPREHENSIVE CHILD IMMUNIZATION ACT OF 1993

KENNEDY (AND KASSEBAUM) AMENDMENT NO. 1106

Mr. BIDEN (for Mr. KENNEDY for himself and Mrs. KASSEBAUM) proposed an amendment to the bill (S. 732) to provide for the immunization of all children in the United States against vaccine-preventable diseases, and for other purposes; as follows:

On page 31, line 4, strike "and".

On page 31, line 8, strike the period and insert "; and".

On page 31, between lines 8 and 9, insert the following:

"(C) has in effect such laws and regulations as may be necessary to ensure the following safeguards for the rights of parents:

"(i) An exemption for the parent, upon the request of the parent, from the requirements established by the State, pursuant to this part, for the collection of data described in subsections (b) and (c) of section 2147, or the collection of any other data regarding any child of the parent that the State may require for incorporation in the State immunization registry.

"(ii) Restrictions ensuring that no information relating to a child or to the parent or guardian of a child that is collected or maintained by the State immunization registry pursuant to this part, or the national immunization surveillance program established under section 2153, will be used as a basis for the criminal prosecution or the commencement of a criminal investigation of a parent or guardian.".

On page 50, line 3, add after the period the following new sentence: "The Secretary shall give special consideration to those States that have low childhood immunization rates and that submit plans that demonstrate the State's substantial effort and commitment to improving such rates.".

On page 50, line 8, strike "If the Director" and all that follows through line 15.

On page 50, between lines 19 and 20, insert the following:

"SEC. 2157. PERFORMANCE BASED GRANT PROGRAM.

"(a) ANNUAL REPORT.—Not later than July 1 of each year, a State shall prepare and submit to the Director of the Centers for Disease Control and Prevention a report that contains an estimate (based on a base population sample) of the percentage of 2-year-old residents of the State who have been fully immunized as described in subsection (c).

"(b) PAYMENTS TO STATES.—

"(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall provide to a State that has submitted an annual report under subsection (a) that demonstrates that the State has fully immunized at least 50 percent of the 2-year-old residents of that State, with respect to the year for which the report was prepared, a payment in an amount equal to—

"(A) with respect to a State that has demonstrated the full immunization of at least 50 and less than 64 percent of all 2-year-old residents of the State, $50 multiplied by the number of fully immunized 2-year-old resident children in excess of the number of children equaling such 50 percent amount;

"(B) with respect to a State that has demonstrated the full immunization of at least 65 and less than 70 percent of all 2-year-old residents of the State, $75 multiplied by the number of fully immunized 2-year-old resident children in excess of the number of children equaling such 65 percent amount; and

"(C) with respect to a State that has demonstrated the full immunization of at least 70 and less than 91 percent of all 2-year-old residents of the State, $100 multiplied by the number of fully immunized 2-year-old resident children in excess of the number of children equaling such 70 percent amount.

"(2) USE OF FUNDS.—

"(A) CONDITION.—As a condition of receiving amounts under this section a State that uses a combination of Federal and State funds in achieving the immunization goals described in paragraph (1) shall agree to reinvest, in activities related to improving immunization services, that percentage of the payments to the State under paragraph (1) that is equal to the amount of Federal contributions to immunization services in the State as compared to the amount of the State contributions to such services.

"(B) DISCRETIONARY USE.—A State that has demonstrated that the use of State-only funds was responsible for the increase in the immunization rate which qualified such State for payments under paragraph (1), may use amounts awarded under this section for other purposes, at the discretion of the State.

"(3) VERIFICATION.—Prior to making a payment to a State under this subsection, the Secretary shall, in collaboration with the Centers for Disease Control and Prevention, verify the accuracy of the State report involved.

"(c) DEFINITION.—For purposes of this section, the term 'fully immunized' means a 2 year old child that has received four doses of DTP vaccine (diphtheria, tetanus, pertussis), three doses of polio vaccine, and one dose of MMR (measles, mumps, rubella) vaccine.

On page 61, strike out line 3 and insert the following:

SEC. 5. AMENDMENTS TO THE FEDERALLY SUPPORTED HEALTH CENTERS ASSISTANCE ACT OF 1992.".

On page 63, between lines 6 and 7, insert the following:

(d) PAYMENT OF JUDGMENTS.—Section 224(k)(2) of such Act (42 U.S.C. 233(k)(2)), as added by section 4 of the Federally Supported Health Centers Assistance Act of 1992, is amended by adding at the end thereof the following new sentence: "Appropriations for purposes of this paragraph shall be made separate from appropriations made for purposes of sections 329, 330, 340 and 340A.".

On page 63, line 7, strike "(d)" and insert "(e)".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BIDEN. 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, November 4, 1993, at 10 a.m. to hold a hearing on the administration's fair lending enforcement efforts and the release of the 1992 Home Mortgage Disclosure Act data.

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

COMMITTEE ON FINANCE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today at 10 a.m. to hear testimony from Office of Management and Budget Director Leon Panetta regarding the administration's health care reform proposal.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Thursday, November 4, 1993, at 10 a.m. to hear Secretary of State Christopher on a foreign policy update.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Thursday, November 4, 1993, at 5 p.m. to receive a closed briefing from CIA Director Woolsey on the situation in Haiti.

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

COMMITTEE ON THE JUDICIARY

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, November 4, 1993.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, November 4, 1993, at 9:30 a.m., to hold a markup. The committee will consider the following executive and legislative business: the nomination of Michael F. DiMario, of Maryland, to be Public Printer; H.R. 877, authorization for establishment of National African-American Museum within the Smithsonian Institution; H.R. 2677, authorization for Smithsonian Institution to plan, design, and construct the West Court of the Natural History Museum; Senate Joint Resolution 143, appointment of Frank Anderson Shrontz as a Smithsonian citizen regent; Senate Joint Resolution 144, appointment of Manuel Luis Ibáñez as a Smithsonian citizen regent; S. 716, Vegetable Ink Printing Act of 1993; and an original resolution to authorize printing of Senate Election Law Guidebook.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, November 4, 1993, at 2:30 p.m. to hold an open hearing on NAFTA.

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

SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND PRODUCTION

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Mineral Resources Development and Production of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., November 4, 1993, to receive testimony on ocean mining technology.

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

SUBCOMMITTEE ON SUPERFUND, RECYCLING, AND SOLID WASTE MANAGEMENT

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Recycling, and Solid Waste Management, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, November 4, beginning at 9:30 a.m., to conduct a hearing on the Superfund liability scheme.

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

ADDITIONAL STATEMENTS

NAFTA

• Mr. WELLSTONE. Mr. President, I have been gratified by the healthy democratization of the trade-policy debate prompted by the proposed North American Free-Trade Agreement [NAFTA]. The broad involvement of citizens in debate over a policy area previously reserved mainly for small circles of experts, bureaucrats and trade lawyers has led to a public focus on the right kind of questions: Would NAFTA help the United States, Canada, and Mexico pursue a high-wage/high-skill strategy of growth and global competition? Would it promote environmental and consumer protection? Would it contribute to development and democracy?

In my opinion, Mr. President, NAFTA fails this new democratic test. It is a backward-looking document. It seeks to revive 1980's-style, trickle-down economics at the continental level. It would place downward pressure on hard-won environmental and consumer standards. And it relaxes our principled linkage of trade privileges to human rights performance.

A letter I would like to include in the RECORD today is not only an example of the kind of expression that has so enriched our trade policy debate, it also is a perfect illustration of why NAFTA is in such trouble now. Americans voted for change in the 1992 Presidential election. NAFTA is more of the failed old economic policy of disinvestment and deregulation. This letter explains why informed, concerned Americans are rejecting NAFTA.

Mr. President, I ask that this letter to the editor from Alec Porte of Minneapolis, published in the New York Times on October 27 of this year, be included in the RECORD following my remarks.

The letter follows:

RETHINK THE AGREEMENT

To the Editor:

Giving in to the pie-in-sky hopes expressed by supporters of the North American Free-Trade Agreement is not what I would expect of William Safire. "Laughter After Nafta" (column, Oct. 21) is no joking matter for tens of thousand of American workers on unemployment lines today or heading toward them in the future.

Mr. Safire's willingness to throw some people out of work now to help our kids get better jobs tomorrow is disingenuous. The trade agreement will not lose any jobs for economists or political columnists, but it will accelerate the outflow of factory and craftworker jobs that have been sliding south to the sweatshops along our border with Mexico and eastward to Taiwan and other offshore factories.

What are the jobs that will benefit tomorrow's workers to which Mr. Safire alludes? Does he expect our unemployed and underemployed workers to wait two or three generations or forever, for Mexican and other Southern Hemisphere laborers to turn into big ticket consumers?

As our economy is significantly driven by middle-class consumer purchases, the outflight of jobs to Mexico can only serve to shrink our pool of workers with discretionary income to spend. It's already happening. What economic quid pro quo will Mexico supply, and how long will it take to generate?

With unemployment at record highs, particularly for minority youngsters, the United States neither today nor tomorrow can afford the price of providing improved income to Mexican workers and also to the run-away United States industries enjoying low-cost labor rates. We cannot reasonably expect all the next generation of Americans to be highly skilled technical-professional class employees. We can't expect all future workers to be college educated.

The United States will always need assembly, semiskilled and unskilled workers. How can we keep these jobs within our borders with the trade agreement sending them south?

The trade agreement does not answer America's need for work opportunities today or tomorrow, and realistically, it certainly does not guarantee an evolving middle class south of the border. Mexico's population is one of the fastest growing in the world. And the free trade treaty will not provide jobs equal to this exponentially exploding birth-rate.

Mr. Safire also envisions a North American marketplace 370 million strong to keep Europe and Asia from "ganging up." Predictions for a Europe as an implacable economic entity have been set on their ear lately by the unwillingness of members of the European Community to give up enough monetary sovereignty, cultural independence or border control to make such a competitive monolith an impending threat to our economy.

We have yet to see Asia evolve as a solidified economic force aimed at North America. The Asian countries are tough enough competitors separately. But the competition among China, Japan, Korea and a half-dozen smaller Pacific countries is too dynamic to foresee a unified economic community rising out of the East.

We will have to rethink the North American Free Trade Agreement and possibly redraft it to conform to the realities of a United States in need of more work. We certainly cannot think of our country as an island economy unto itself. But it is also adjusting to a hemorrhage of industrial jobs and is still without a program for keeping its workers employed. The trade agreement will not help solve these needs.

Things to do within our borders include tax credits to businesses, small and large, that invest in job-producing research and development, and create training programs, along with increased Federal aid for cities and states filtered through the private sector to help rebuild our crumbling infrastructure or prepare displaced workers for new opportunities. These and not a stronger Mexican economy are more likely solutions to cure the defects of our displaced manufacturing economy. Otherwise the last laugh heard will be Mexico's.

ALEC ANDREW PORTE.

MINNEAPOLIS, *October 22, 1993.*•

ORDERS FOR TOMORROW

Mr. BIDEN. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:50 a.m., Friday, November 5, that following the prayer, the Journal of Proceedings be deemed approved to date, and the time for the two leaders reserved for their use later in the day, that immediately following the Chair's announcement, the Senate resume consideration of S. 1607, with the time until 9 a.m., for debate on the Dole amendment, No. 1105, with the time equally divided and controlled between Senators BIDEN and DOLE; that at 9 a.m., without intervening action or debate, the Senate vote on or in relation to the Dole amendment.

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

RECESS UNTIL 8:50 A.M. TOMORROW

Mr. BIDEN. Mr. President, other than noting that it is 3 minutes after 12, and my sister's birthday, if there is no further business to come before the Senate today, I ask unanimous consent the Senate now stand in recess as previously ordered.

There being no objection, the Senate, at 12:04 a.m., recessed until Friday, November 5, 1993, at 8:50 a.m.

NOMINATIONS

Executive nominations received by the Senate November 4, 1993:

DEPARTMENT OF COMMERCE

RAYMOND E. VICKERY, JR., OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE JAMES D. JAMESON, RESIGNED.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

LARRY E. BYRNE, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT, VICE SCOTT M. SPANGLER, RESIGNED.

ASSASSINATION RECORDS REVIEW BOARD

HENRY F. GRAFF, OF NEW YORK, TO BE A MEMBER OF THE ASSASSINATION RECORDS REVIEW BOARD. (NEW POSITION)

NATIONAL COUNCIL ON DISABILITY

LARRY BROWN, JR., OF MARYLAND, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1995. (REAPPOINTMENT)

DEPARTMENT OF AGRICULTURE

GRANT B. BUNTROCK, OF SOUTH DAKOTA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION, VICE KEITH D. BJERKE, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. RICHARD M. SCOFIELD, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICERS FOR PERMANENT PROMOTION IN THE U.S. AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

LINE OF THE AIR FORCE

To be lieutenant colonel

ROBERT D. BLEVINS [redacted]
RAYMOND G. DONLEY, III [redacted]
JUAN C. FERNANDEZ [redacted]
JOHN M. GOLDEN [redacted]
DAVID J. HANKO [redacted]
MICHAEL L. MORGAN [redacted]

JONATHAN B. MORROW xxx-xx-x...
DOUGLAS B. SALMON xxx-xx-x...
BILLY M. STEPHENSON xxx-xx-x...
FRANCIS SZALEJKO xxx-xx-x...

To be major

ROBERT P. BAINE, III xxx-xx-x...
SAMUEL D. BATTEN xxx-xx-x...
RICHARD S. KEATING xxx-xx-x...
ALAN P. KNOPF xxx-xx-x...
KARL J. KUWIK xxx-xx-x...
LAWRENCE E. MANNING xxx-xx-x...
JERRY C. MCDANIEL xxx-xx-x...
CARL B. MCDONALD xxx-xx-x...
ROBERT M. MORRISON xxx-xx-x...
GEORGE S. RATHJEN xxx-xx-x...
JOHN P. RENKAS xxx-xx-x...
CALVIN J. ROMRELL xxx-xx-x...

THE FOLLOWING NAMED OFFICERS FOR PERMANENT PROMOTION IN THE U.S. AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE. THE OFFICERS IDENTIFIED WITH AN ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR AIR FORCE IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM THE DUTIES INDICATED PROVIDED THAT IN NO CASE SHALL THE OFFICERS BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

MEDICAL CORPS

To be colonel

CHARLES G. KIRBY xxx-xx-x...

To be lieutenant colonel

JEFFREY D. BODIN xxx-xx-x...
VINCENT F. CARR xxx-xx-x...
JAMES B. NORWOOD xxx-xx-x...
KEVIN B. WEST xxx-xx-x...

To be major

DANIEL K. BERRY xxx-xx-x...
BRIAN K. BRZOWSKI xxx-xx-x...
ROBERT M. KRUGER xxx-xx-x...
JOSEPH R. RITCHIE xxx-xx-x...

DENTAL CORPS

To be lieutenant colonel

ANDREW H. LOEB xxx-xx-x...

CHAPLAIN CORPS

To be lieutenant colonel

RICHARD C. BESTEDER xxx-xx-x...

To be major

*JOHN R. BOOTH xxx-xx-x...
*WILFRED R. BRISTOL xxx-xx-x...
REX E. CARPENTER xxx-xx-x...
*LESLIE G. NORTH xxx-xx-x...
*JOEL G. RAYFIELD xxx-xx-x...
*DANNY C. RIGGS xxx-xx-x...
*MARINUS G. VANDESTEEG xxx-xx-xxxx

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM THE DUTIES INDICATED, PROVIDED THAT IN NO CASE SHALL THE OFFICER BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

CHAPLAIN

To be captain

BRETT C. OXMAN xxx-xx-x...

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, WITH GRADES AND DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICER BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

LINE OF THE AIR FORCE

To be captain

GARY C. GROOMS xxx-xx-x...
DEBORAH A. SEAMAN xxx-xx-x...
MICHAEL J. YAGUCHI xxx-xx-x...

IN THE NAVY

THE FOLLOWING NAMED REGULAR OFFICER TO BE REAPPOINTED PERMANENT ENSIGN IN THE MEDICAL SERVICE CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

To be ensign, Medical Service Corps, USN, permanent

ROBERT K. TAKESUYE

THE FOLLOWING NAMED LINE OFFICERS TO BE REAPPOINTED PERMANENT LIEUTENANT (JUNIOR GRADE) IN THE SUPPLY CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5582(B):

To be lieutenant (junior grade), Supply Corps, USN, permanent

THOMAS E. GRAEBNER
RONALD E. HOFFMANN
STEPHEN L. JENDRYSIK
STEPHEN M. JENNINGS
THOMAS E. JOHNSON
JEFFERY J. MASON
RICHARD M. NALWASKY
FIDENCIO S. PAMPO
DENNIS D. YLAGAN

THE FOLLOWING NAMED LINE OFFICERS TO BE REAPPOINTED PERMANENT ENSIGN IN THE SUPPLY CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5582(B):

To be ensign, Supply Corps, USN, permanent

GEOFFREY C. GRAHAM
HANS HARTWIG
MICHAEL E. MCNULTY
KEVIN E. PARKER
GERALD P. RAIA
JASON SCARLETT

THE FOLLOWING NAVAL RESERVE OFFICERS TRAINING CORPS PROGRAM CANDIDATE TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531.

JOHN D. SOWERS

THE FOLLOWING ARMY CADET TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531 AND 541:

ROBERT R. WINTERS

THE FOLLOWING NAMED DISTINGUISHED NAVAL GRADUATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

PETER P. BENTON
MATTHEW L. CLARK
THOMAS E. EWING
JASON P. GREENE
KELLEY S. HURST
KEVIN L. QUARDERER
CHARLES A. STERNBERG
PHILIP W. WALKER
JASON L. WEBB

THE FOLLOWING NAMED U.S. NAVAL RESERVE OFFICERS TO BE APPOINTED PERMANENT LIEUTENANT IN THE MEDICAL CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

HEIDI COURTNEY
GRANT C. WALLACE

THE FOLLOWING LIEUTENANT, U.S. NAVY, RETIRED, TO BE REAPPOINTED PERMANENT LIEUTENANT FROM THE TEMPORARY DISABILITY RETIRED LIST, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 1211:

GEORGE P. FIORE

THE FOLLOWING FORMER U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

WARREN P. KLAM

THE FOLLOWING U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

DREW K. SIEGEL

THE FOLLOWING NAMED U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE DENTAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

SCOTT W. IMRAY
LOREN J. STEENSON

THE FOLLOWING U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE LINE OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

GARY W. CAILLE

THE FOLLOWING NAMED ENLISTED MEMBERS TO BE APPOINTED PERMANENT ENSIGN IN THE MEDICAL SERVICE CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

RICKY D. ALLEN
BARBARA K. BELLMONT
DENNIS J. BIANCO
KRISTINA M. BINGHAM
KIM B. BROWN
TIMMY F. BROWN
BRIAN D. CLARK
KIM M. COWAN
STEVEN T. DOVER
JESSIE E. GROSS
THOMAS C. HUGHES
RICKY L. KIDMAN
MARC C. LEWIS
DANIEL L. LOCKWOOD
LYNN C. MARTIN
JOSE A. MARTINEZ
RICHARD MCCROW
THOMAS OLSON
MORRIS C. PETITT
WILLIAM E. SCHALCK
ROBERT J. SPEARS
DONALD R. SWAIN
GEORGE E. TAYLOR
LEEANN G. VARGAS
RICKY D. WHITE
PETER G. WISH

THE FOLLOWING NAMED ENLISTED MEMBERS TO BE APPOINTED PERMANENT ENSIGN IN THE MEDICAL SERVICE CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

TIMOTHY F. DOLAN
LUIS FELICIANO
ALEJANDRO MONTELONGO
JOHN M. SERRANO
SUSAN B. SHAW
ERIC C. STOUT
CHRISTOPHER A. URSINO

THE FOLLOWING NAMED NAVAL RESERVE OFFICERS TRAINING CORPS CANDIDATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

NAVAL RESERVE OFFICERS TRAINING CORPS, USN

To be ensign; permanent

CHRISTOPHER J. ADAMS
MICHAEL J. ASSANTE
CHRISTOPHER J. ATKINSON
TIMOTHY A. BARNEY
JULLIAN C. BISHOP
DALE W. BOGARDUS
GREGORY M. BRADLEY
TAWANNA M. BRAGG
ALBERT BURGOS
ERIC M. BYMAN
MARK E. CAMPOS
LLOYD A. CHEE
JOHN S. CHRISTENSEN
PATRICK J. CUMMINGS
NICOLE L. DERAMUS
TIM J. DEWITT,
MARK A. EVERSON
DON G. FAYAS
TINA R. GONZALEZ
ERIC G. HALL
MARK J. HANSEN
CRAIG A HILL
MICHAEL G. KEENUM
NORMAN W. LEE
MAURICE E. MACKEY
JUAN C. MALDONADO
ERIK R. MARSHBURN
EDWARD MARTINEZ
JEFFERSON E. MCCOLLUM
MADELENE E. MEANS
EMMA J. MOORE
DANIEL E. NANCE
STEPHEN C. PETTY
CHRISTOPHER G. PORTER
LORN D. REYNOLDS
JASON L. RIDER
MICHAEL RILEY
PAUL J. RONAN
MARK J. RUNSTROM
ROBERT C. SHASSBERGER
JON D. SOLOMON
SCOTT S. SPRINGER
GREGORY T. STEHMAN
JEFFREY C. STEVENS
GREGORY J. TACZAK
BRETT A. WAGNER
MICHAEL R. WEST
MICHAEL J. WHIDDEN
BENJAMIN R. WOODS
THOMAS M. YANNONE, JR.
EDMUND L. ZUKOWSKI

THE FOLLOWING NAMED CANDIDATES IN THE NAVY ENLISTED COMMISSIONING PROGRAM TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

NAVY ENLISTED COMMISSIONING PROGRAM, USN

To be ensign; permanent

JAMES L. BASFORD
PAUL J. BERNARD
JOHNNY E. BOWEN
COREY L. BROWN
GERALD F. BURCH
MICHAEL D. DEWULF
LISA A. FLORKOWSKI
JOY A. GOE,
JOAQUIN GUERRERO
GREGORY C. HAIRSTON
DOUGLAS A. HARBOLD
DANA B. KEPNER
KIRK A. KNOX
STEVEN C. LEWIS
DAMON P. LILLY
ROBERT J. LINEBARGER
PATRICK M. MCDERMOTT
ROBERT P. MILES
HARRY X. NICHOLSON
ERIC C. NICKERSON
PAUL A. PIATT
WILLIAM J. PIERCE
WILLIAM H. PRIESTER
JEFFREY W. RAGGHIANTI
PAUL M. REIS
JULIE R. SCHUCHMANN
GREGORY O. STRATTON
CLIFTON J. WILLIAMS
DONALD E. WYATT

IN THE MARINE CORPS

THE FOLLOWING NAMED NAVAL RESERVE OFFICERS TRAINING CORPS GRADUATES FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, U.S. CODE, SECTIONS 531 AND 2107:

U.S. MARINE CORPS CONFIRMATION LIST

To be second lieutenant

AAGAARD, HARALD
ALUOTTO, PATRICK S.
ANDERSON, GARRETT
BACHE, MATTHEW W.
BAILEY, TIMOTHY W.
BAIN, ROBERY
BERTAMINI, MARCOS E.
BLAKE, BRIAN D.
BODINE, WAYNE A.
BOORSTEIN, MICHAEL A.
BRATCHER, RICHARD C., JR.
BRAUN, PETER D., JR.
BRESNAHAN, JOHN J.
BRET, OLIN H.
BRIDE, JEFFREY A.
BRIGGS, KENNETH L.
BROKOS, MICHAEL J.
BROOKS, JOHN M.
BROSTEK, DEREK J.
BRYSON, GREGORY L.
BUCHAN, TOBY P.
BUDIHAS, CHRISTOPHER L.
BURKS, MICHAEL S.
BUSACCA, ALEXANDRIA
CAIMI, JEFFREY S.
CAMERON, COLIN E.
CAMERON, KIRK W.
CAMPBELL, JAMES D.
CAMPBELL, THOMAS H.
CARLISLE, KEVIN T.
CARR, SHANE P.
CARTER, CHRISTOPHER L.
CASHIN, MATTHEW T.
CATHCART, BRIAN C.
CAUNEDO, MICHAEL
CHANDLER, JEROME J.
CHAO, ANDREW L.
CHARNEY, SEAN S.
CHARPENTER, TIMOTHY J.
CHIVERS, MATTHEW
CHRISTOPHER, JAPHET T.
CHRISTOPHER, SIMPSON C.
CLARK, RONALD J.
CLEVENGER, ANDREW H.
CLINGAN, MARK H.

CLOUTIER, ERIC D.
COLLINS, SEAN C.
CONRAD, BRAIN H.
CONSTANTIN, PHILLIP E., JR.
COOK, MATTHEW P.
COOK, RIAN E.
CORTNEY, THOMAS
CORY, MARK D.
COTTELL, MATTHEW C.
COYLE, DONNA E.
CRACKNELL, LEE A.
CREED, CHAD R.
CRENSHAW, QUINTON J.
CROSS, JOSEPH E.
CROW, JASON G.
CRUZ, BRIAN P.
CURTIS, HEATHER L.
DAHL, TINA M.
DECKER, MARK R.
DEGABRIELE, ROBERT T.
DEGUIA, FENANDO G.
DEIS, JOHN J.
DELEONARDIS, JOHN P.
DELKA, JON
DERRICK, AMY E.
DEVORE, DUSTIN H.
DEWITT, DOUGLAS L.
DIBIANCA, SAMUEL
DIMARTINI, JASON D.
DINKLEMAN, GREG T.
DOHR, JAMES N.
DONALDSON, MATT A.
DONALDSON, WILLIAM H.
DOTSON, SEAN M.
DOUCET, NORMAN P.
DREMANN, TIMOTHY R., JR.
DUGAN, BRIAN C.
DUNN, SEAN R.
DUNNE, JONATHAN
DUPESSIS, BRIAN P.
DURHAM, OSCAR W.
DYER, TOBY G.
ENG, SAM
ERCOLANO, MICHAEL
ERICKSON, CHRISTOPHER J.
ESPOSITO, THOMAS
EWING, ANNE-MARIE C.
FANNING, ROBERT B.
FAUBER, CHAD M.
FISHER, CASEY J.
FLORES, ERIC A.
FORTUNATO, JEFFERY J.
FULLER, KAREN E.
GABBARD, DANIEL
GARCIA, ADOLFO JR.
GELERTER, JOSHUA K.
GIESE, JOHN T.
GIOIA, MATTHEW M.
GOODWIN, MATTHEW D.
GORDON, BRUCE D.
GOULD, JASON H.
GRABARCZYK, LAWRENCE J.
GRANEY, KEVIN F.
GRAY, DUANE A.
GRAY, WILLIAM C.
GREENWOOD, JACQUELINE D.
GREGOR, JOSEPH F.
GRIES, KAREN E.
GRIFFIN, STANLEY P.
GROS, CHRISTOPHER N.
HALSTEAD, WOODROW J.
HALVAKSZ, SETH A.
HAMLING, RAYMOND G.
HANSEN, CHAD
HAWKINS, BRIAN C.
HECK, TIMOTHY I.
HELD, DANIEL J.
HENDERSON, DAVID E.
HENEGAR, WALTER H.
HENRY, SHAWN P.
HERNANDEZ, DULCIE R.
HEYERLY, THOMAS
HILL, DOMETRIUS D.
HILL, JOHN F.
HILL, NESTOR L.
HILL, SCOTT P.
HILLS, JEFFREY T.
HINES, BRET O.
HOLZMAN, JAMES C.
HOOPER, ANDREW S.
HUDSPETH, DAVID W.
JIN, SUK J.
JOFFRION, MICHAEL D.
JOHNSON, DANNY L.
JOHNSON, ERIC S.
JOHNSON, RODNEY W.
JOHNSTON, GREGG M.
JOINER, MICHAEL W.
JURS, CHRISTIAN T.
JUSTIN, DIAL W.
KAMEI, ROBERT C.
KELLER, JOHN E.
KERRICK, LINDA G.
KIRBY, CHRISTOPHER H.
KIRCHER, ELI D.
KNUTSON, JOHN
KOCH, TIMOTHY A.
KOPETS, KEITH F.
KOPP, BRIAN J.
KRIENERT, ERIC V.
LAGLENN, JOHN C.
LAMIRAND, JOHN C.
LANE, SCOTT M.
LARSEN, DAVID B.
LAUDER, JOHN M.
LAUFER, ERIK E.
LAWAWAY, RUSSELL A.
LAWS, KENNETH O.
LAWSON, DAVID P.
LIGHTFOOT, STEPHEN J.
LIN, TONY H.
LOUKS, CHRISTOPHER
LOVEWELL, WILLIAM A.
LUCAS, JAMES W., IV
LUCIANO, BENJAMIN J.
MACCARI, PETER J.
MAGRISI, WAYNE K.
MALMQUIST, CHRISTOPHER J.
MARKO, MARK R.
MARKO, MICHAEL R.
MARKS, AARON S.
MARLETTE, ROBERT T.
MARTIN, ANDREW C.
MARTIN, DAVID C.
MARTIN, MICHAEL R.
MARTIN, THOMAS M.
MARTIN, WILLIAM
MARZOLF, THOMAS S.
MATA, PHILLIP M.
MCALEER, PETER
MCARTHUR, DAVID C.
MCAVOY, BRIAN G.
MCCOMB, COLIN P.
MCCUMBER, PATRICK A.
MCGRATH, STEVEN F.
MCKANE, JAMES P., IV
MCLEAN, DOUGLAS E.
MCMILLAN, KENNETH S.
MCNEICE, JEFFREY A.
MCNULTY, SEAN P.
MCSHEFFREY, KATIE L.
MCWHORTER, KEITH W.
MILES, JOHN J.
MILLER, ALLAN B.
MILLER, CARL W.
MILLER, CHRISTOPHER A.
MILLER, JOHN J.
MISHOE, KEITH B.
MIZELL, DARON M.
MOKARRY, TIMOTHY P.
MONKMAN, JOHN T.
MONTH, ROSS A.
MOON, GARY G.
MOORE, ANTHONY D.
MORAN, MICHAEL F.
MORHENN, ERIC T.
MULLINS, MICHAEL B.
MURCHISON, MICHAEL J.
MURPHY, NEIL F., JR.
NELSON, BRIAN C.
NEWELL, JONATHAN R.
NEWELL, ROBERT
NEWLAND, TIMOTHY A.
NEWSOME, STEPHEN L.
NGUYEN, MINH C.
OGLETREE, STEPHEN L.
OLSON, JEREMY R.
ONEILL, JEFFREY M.
OROURKE, BENJAMIN P.
OUTMAN, SCOTT D.
PARASCANDOLA, CIRO A., JR.
PARKER, RUSSELL W.
PARKS, GARRY L.
PATTERSON, ANDREW L.
PERRY, TODD R.
PEREZ, JOE E.
PERRIN, PAUL M.
PETERSON, DAVID H.
PETERSON, MATTHEW A.
PFEUFFER, ADIN M.
PIERCE, KEITH P.
POUNDRIER, JOEL P.
PRATT, JASON M.
PUFFER, SARAH T.
PUNTNEY, GREGORY T.
RACINEZ, RONALDO G.
RADER, MICHAEL J.
RAMIREZ, OSCAR A.
RAMSEY, ROBERT P., JR.
RANDALL, TERESA L.
RANKIN, CHRISTIAN M.
RAY, VALERIE S.
REMILY, ALEXANDER T.
REVIER, EUGENE D.
RICKETSON, MARY C.
RISHEL, JEREMY D.
RITTERBY, BERT H.
ROBINSON, JAMES T.
RODRIGUEZ, CESAR
ROST, FRANCIS J.
ROWE, CARLOS O.
RUSH, NATHAN M.
SALLEE, NATHAN E.
SALVAGE, DEBORAH L.
SCHLATHER, BYRON L.
SCHREFFLER, GEORGE C., III
SCHUPPNER, BRIAN N.
SELLERS, KEITH D.
SEVERSON, CHRIS T.
SHERWOOD, JILL M.
SHORTAL, MATTHEW C.
SIEBERT, TODD M.
SIENKIEWICZ, DONALD H.
SINDLE, JAMES M.
SKURDALSVOLD, SCOTT A.
SMITH, CHARLES L.
SNIFFEN, JAMES P.
SNOW, CASEY R.
SOUNDRS, CHRISTOPHER J.
SPACKMAN, KURT J.
SPRENKLE, DANIEL N., JR.
STACK, ROBERT O.
STANSELL, WILLIE M., III
STAUFFACHER, PHILIP K.
STENNER, BRADLEY J.
STEPHENSON, DANIEL A.
STERNBERG, JEFFREY A.
STERZING, PETER A.
STEWART, CHAD
STOWER, JEFFREY J.
STYSKAL, MICHAEL S.
SUELTENFUSS, TIMOTHY C.
SUESS, DAVID L.
SULLENBERGER, ERIK B.
SULLIVAN, EDWARD R.
SZILAGVI, ROBERT J.
TAUBENHEIM, BRIAN R.
TAYLOR, CHARLENE A.
TAYLOR, JASON C.
TAYLOR, MARCUS
THERIOT, TYRONE P.
THIELEMANN, CHRISTOPHER J.
THOMAS, MATTHEW L.
THOMAS, SCOTT K.
THOMPSON, JEREMY M.
TODD, ANDREW W.
TRAIL, SCOTT B.
TREPKA, JOHN C.
TRIBBETT, CHRISTOPHER J.
TUCKER, PATRICK M.
VANDERSLICE, CHAD R.
VICTORY, ERIC R.
VILACOBA, RICHARD J.
VILLHARD, DOUGLAS P.
WAHL, EVAN W.
WALSH, DAVID S.
WARD, ROBERT D.
WARE, KEVIN
WEER, CHADD B.
WELCH, JOHN M.
WHITE, JOSEPH F.
WHITTINGTON, ERIC S.
WILLIAMS, CYNTHIA M.
WILLIAMS, GEORGE A.
WILLIAMS, KEVIN A.
WOFFORD, BILLY J.
WOOD, MICHELLE L.
WRAY, MICHAEL J.
YEAGER, JAMES M.
YOUNG, ADAM C.
ZYLA, ROBERT C.

IN THE MARINE CORPS

THE FOLLOWING NAMED MARINE CORPS ENLISTED COMMISSIONING EDUCATION PROGRAM GRADUATES FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, U.S. CODE, SECTION 531:

To be second lieutenant

BONAFE, AUDREY R.
BOSTROM, MICHAEL L.
BRADFORD, MARY J.
BRADLEY, DANIEL J.
CAMERANO, JUDITH M.
CRUM, ROBERT C.
DAVIS, MADELEINE
DICKEY, GEORGE W., JR.
DYGOWSKI, LAUREN L.
ENGBERG, RANDAL S.
ENHOLM, JACOB C.
ESTRADA, AMADOR R.
GARD, BRIAN E.
GOMEZ, DAVID JR.
HESS, JOHN R.
HIPPLER, MARK A.
HUGHES, SHAWN J.
JENKINS, DONALD J.
JOHNSON, CHAD W.
KELLY, HOLLIE D.
KENYON, GORDON L.
KING, GARY A.
LOREN, SHEILA A.
MARCHLINSKI, GREGORY
MARTIN, CHARLES E.
MCGRADY, JOHANNA F.
MOORE, DAVID A.
OCONNOR, DANIEL W.
ODELL, JEFFREY D.
OSTERHOUDT, THOMAS F.
PERRETTA, ANTHONY R.
PERRY, CHRISTOPHER J.
PISCIOTTA, LEONARD P.
REDENIUS, WILLIAM J.
REDMOND, ROBERT D., II.
RODRIGUEZ, LANDON R.
SELIK, LAWRENCE D.
SIPE, PATRICK S.
STEAD, JOHN D.
STORM, BRYAN D.
SWICEGOOD, DAVID J.
TODL, ALAN F.
TOOTLE, RONALD
VIGNEAU, LISA L.
WILSON, RONALD S.

IN THE MARINE CORPS

THE FOLLOWING NAMED U.S. AIR FORCE ACADEMY GRADUATES FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, U.S. CODE SECTION 541:

U.S. MARINE CORPS CONFIRMATION LIST

To be second lieutenant

GALFANO, CHRISTOPHER J.
LEICH, BRIAN H.
ROSA, THOMAS C.
SCHULTE, MICHAEL J.
WATTS, TIMOTHY C.

IN THE MARINE CORPS

THE FOLLOWING NAMED U.S. MILITARY ACADEMY GRADUATE FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, U.S. CODE, SECTION 541 AND 5585:

U.S. MARINE CORPS CONFIRMATION LIST

To be second lieutenant

TLAPA, JEFFERY J.

IN THE NAVY

THE FOLLOWING NAMED U.S. NAVAL RESERVE OFFICERS, WHO ARE IN THE NAVY COMMISSIONING PROGRAM TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

NAVAL RESERVE OFFICERS, USN

To be ensign; permanent

ALLEN, SCOTT M.
ANDERSON, HEINRICH A.
ATHANS, TINA M.
BANDY, WAY
BANGERT, LAWRENCE L.
BARE, CHARLES E., II
BARNES, DALE E.
BAUER, DONALD E.
BAXTER, JOSEPH M.
BEALE, WILLIE H.
BENSON, JEFFREY A.
BERG, FREDERICK W.
BIONDI, JOSEPH J.
BLAND, KEVIN C.
BOAMAN, SCOTT M.
BONNER, DELONG
BOYACI, DIMITRI C.
BRITTAIN, JESSE L.
CALER, CRISTAL B.
CERILLI, ANTHONY P.
CIARAVINO, BRIAN D.
CLARK, JOHN H.
COBURN, CHRISTOPHER J.
CONSTANTIAN, RICHARD K.
CORRIGAN, CHRISTOPHER J.
COSTNER, RICKY R.
COUGHLIN, ROBERT
COX, WILLIAM T.
COZINE, RAYMOND T.
CRISP, VITTERIO J.
CUNNINGHAM, REBECCA L.
DAVIS, GEORGE A.
DICKISON, RUSSELL J.
DOSSEY, RANDY A.
DRAKE, ROY A.
DUDLEY, TIMOTHY P.
DUGGAN, TIMOTHY J.
DUNHAM, ZACHARY K.
ELLIOTT, MICHAEL
FULLER, FRANK R.
GANT, ERIC L.
GEHL, DAVID L.
GIBBONS, JEFFREY T.
GONZALEZ, JUAN R.
GORDON, KIRK R.
GRADY, EARL S.
GUMKE, RANDALL A.
HAMILTON, WILLIAM E.
HAMLIN, SCOTT A.
HARRINGTON, MOLLEY A.
HEINSINGER, STEPHEN M.
HELMBRECHT, STEVEN B.
HENKLE, TERANCE J.
HILAIRE, PIERRE
HIME, RUSSELL V.
HIPSLEY, EVAN A., JR.
HUDAK, GREGG A.
HUDSON, MARC A.
HUNTER, ANTHONY R.
HUNTER, CHONG
ISBELL, TAREY D.
JACKQUES, GERALD D.
JOHNSON, RICHARD M.
JOHNSTON, WILLIAM D.
JONES, CARLTON L.
KELLY, BRIAN L.
KERCHER, GREGORY R.
KUNZMAN, DOUGLAS W.
L. ESPERANCE, JAMES O.
LEDOUX, STEVEN M.
LIBBY, DAVID W.
LOWER, RODGER D.
LUCE, JEFFREY R.
MAGHUYOP, CHRISTOPHER M.
MALDONADO, ALEXANDRA I.
MALLORY, PATRICK L.
MALLOY, BRIAN J.
MARRINAN, MICHAEL H.
MARTIN, STEPHEN L.
MASON, RONALD A.
MATTHEWS, CALVIN
MCCONNELL, RICHARD J.
MCGOVERN, SUSAN C.
MCVAY, MICHAEL T.
MONTGOMERY, JOHN F.
MUELLER, PAUL E.
NASH, WYATT J.
NOLTE, CARL P.
NORTON, SCOTT Q.
NYGARD, GREG L.
OLLER, ERIK D.
PELTON, JIMMY W.
PHARES, STEVEN L.
PLOWMAN, MICHAEL J.
PYLE, RAYMOND A.
RIKER, RICHARD R.
RIVERA, REINALDO J.
ROBERTSON, DALE
ROLLINS, MARK D.
ROMERO, JESUS D.
ROYS, MARK A.
SCHNEIDER, NATHAN D.
SCHOEFFLING, ROBERT D.
SHOENBERGER, JAMES A.
SMITH, CHRISTOPHER P.
SMITH, DEBORAH M.
SMITH, TIMOTHY B.
STARKEY, BENJAMIN J.
STJOHN, MIA K.
STRAHM, ROBERT P.
SWEET, DARREN L.
THOMAS, HAYDN A.
THOMPSON, WILLARD L.
TODD, DAVID B.
TROYANEK, JEFFREY D.
TURNER, CLIFTON C.
TURNER, KENNETH B.
URBAN, JOHNNY D.
WALKER, KEITH B.
WALTERS, KEITH
WHITTLE, LYNDA M.
WICK, BRIAN W.
WILKINSON, STEVEN R.
WILLIAMS, KIM C.
WILSON, KEVIN R.
WITHEE, JON E.
ZACHARY, URIAH E.

IN THE NAVY

THE FOLLOWING NAMED U.S. NAVAL RESERVE OFFICERS TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

NAVAL RESERVE OFFICERS, USN

To be ensign; permanent

ABARBANELL, AARON M.
ABAYA, AMADO F.
ABBAMONDI, JOHN G.
ABOBO, JOEY B.
ACCOLA, RUCHIRA S.
ADAIR, ROBERT L.
AGUAYO, MARIA L.
AGUILAR, FELIX F.
ALBRECHT, GLENN G.
ALLBRITTON, BENJAMIN J.
ALLEN, GERALD A.
ALONZO, QUINO P., JR.
ALONZO, SESARIO P.
ALVAREZ, ERNESTO
ALVAREZ, ROGELIO E.
ANDERSON, GREGORY J.
ANDERSON, MARK E.
ANDERSON, SCOTT A.
ANDERSON, SEAN R.
ANSTEAD, THOMAS E.
ANTHONY, RYAN M.
ARCHER, CHRISTOPHER E.
ARNOLD, SCOTT W.
AUGELLI, VINCENT A.
AUSTIN, RICHARD J.
AYALA, ROBERT R.
BAHR, ROBERT L.
BAKER, CHAD E.
BAKER, DANIEL J.
BAKER, JEFFREY W.
BALCH, THOMAS A.
BALDUS BRIAN R.
BALDWIN, WILLIAM R.
BANASIEWICZ, ROBERT J.
BARBER, CHARLES W.
BARNES, JEFFERY D.
BARTON, JAMES E., II
BASS, ERIC B.
BATES, KENNETH R.
BAYLISS, RODERICK S.
BEAMER, WILLIAM G.
BEANE, JOHANNA L.
BEASLEY, JAMES R.
BEATTY, THEODORE J.
BEAUDRY, DANIEL P.
BECK, EDWARD G., II
BECK, JAMES A.
BECKER, ANDREW E.
BECKNER, TRINA M.
BEGLEY, JULIA K.
BEHRENS, BRIAN E.
BEICKE, DANIEL C.
BEIER, JAMES J.
BELCHER, JASON A.
BELL, JAMES W.
BELL, RANDALL A.
BELLIS, ROBERT H.
BELVIN, DOUGLAS S.
BENESH, TIMOTHY L.
BENNETT, KRISTEN T.
BENSON, CRAIG B.
BERG, PETER C.
BERNENS, WILLIAM C.
BERNIE, JOHN R.
BERRY, LAURI D.
BERZINS, PETER A.
BIALEK, ERIC J.
BILLY, RANDALL E.
BIRCH, DAVID M.
BIRKHOLZ, BRET C.
BISHOP, ANDREW T.
BITNER, STEPHEN J.
BJORK, KARL E.
BLACHOWICZ, KEITH R.
BLACK, MICHAEL F.
BLACKWELL, TOBIAS R.
BLACK, MATTHEW J.
BLAKELY, ASHLEY B.
BLASKOWSKI, PAUL L.
BOBO, FRANK, R.
BOCHENEK, JOSEPH W.
BOESE, SARAH A.
BOGIE, CHRISTOPHER D.
BOHLIN, MATTHEW D.
BONNER, MATTHEW J.
BOONE, TODD R.
BORCHERS, NATHAN P.
BORJA, JEFFREY P.
BOSQUE, EDWARD F.
BOSWELL, WILLIAM L.
BOUDREAUX, JEAN C.
BOUTOT, BRIAN J.
BOWSER, STEVEN J.
BOYCE, KATHERINE E.
BOYER, LESLIE W., III
BRACKENBURY, LISA L.
BRADSHAW, MICHAEL R.
BRASWELL, BRYAN E.
BRAUN, MICHAEL S.
BREIDENBACH, MICHAEL N.
BRENNAN, JOSEPH E.
BRENNAN, MICHAEL P.
BRENNAN, SHAUN P.
BRICKHOUSE, GEORGE D., III
BRIDGES, JASON A.
BROADNAX, LARON B.
BROMBERG, MATTHEW F.
BRONK, BRIAN B.
BROOKS, BRIAN G.
BROOKS, DAVID L.
BROOKSHIER, MARK A.
BROSKI, TODD M.
BROWN, CHARLES W., IV
BROWN, DANIEL D.
BROWN, MICHAEL S.
BROWN, PATRICK S.
BROWN, RAYMOND N.
BRUNHART, ANDREA E.
BRYANT, CHADWICK B.
BUCKLEY, DOROTHY L.
BUKOLT, KATHERINE M.
BURBRIDGE, DWAYNE E.
BURDEAUX, ROBERT C.
BURGESS, JASON A.
BURGETT, DANIEL V.
BURIANEK, MICHAEL J.
BURKE, MICHAEL J.
BURKE, RACHEL A.
BURNS, ROBERT T.
BURT, ROBERT L.
BUSS, JEFFREY D.
BUSSARD, DAVID M.
BYRD, JOSEPH M.
CAHILL, JOSEPH F., III
CALLAGHAN, PATRICK M., JR.
CALVIN, CHARLES L.
CAMERON, HEATHER L.
CANALES, RAUL I.
CAPIZZI, JOHN E.
CARL, LOUIS O.
CARMICHAEL, TRENT L.
CARNELL, JOSEPH A.
CARO, GREGORY P.
CARRIGAN, JOSEPH
CARROLL, STEPHEN G.
CARTER, JAMES W.
CARTER, PHILLIP G.
CARTER, TIMOTHY M.
CARTER, WILLIAM H.
CASAMASSA, MICHAEL
CASSIDY, REGINA M.
CATES, CLINTON J.
CAYLOR, KRIS A.
CECIL, THOMAS C.
CHAIKA, DAVID A.
CHAKOFF, JUDAH B.
CHANDLER, MICHAEL C.
CHANDO, SCOTT E.
CHAPMAN, REGINA R.
CHASTAIN, STEVEN D.
CHEELEY, STEPHEN P.

CHELMAN, DONALD S.
CHEN, VICTOR S.
CHESHIRE, CARY M.
CHEUNG, CHI K
CHOI, JOHN T.
CHOPEK, ANDREA E.
CHURCH, BRYANT T.
CINTRON, CARLOS J.
CLARK, MARC R.
CLARK, MARK E.
CLARK, MATTHEW D.
CLARKSON, ROBERT J.
CLEMENTZ, MATTHEW D.
CLENDENIN, DUNCAN M.
CLOUSER, DANIEL K.
COFFEY, TIMOTHY E.
COLBERT, CHARLES W.
COLEMAN, ARTHUR G.
COLEMAN, PAUL C.
COLEMAN, ROMEO L.
COLLING, CHRISTOPHER I.
COLLINS, GREGORY
COLLINS, ROBERT D.
COMMERFORD, MATTHEW B.
CONDIT, MARIO G.
CONZELMAN, JAMES G.
COOK, LAUREL A.
COOKE, JAMES D., III
COOPER, ABABETH M.
COOPER, CRAIG J.
CORBETT, STEVEN P.
CORCORAN, LAWRENCE
CORNECK, GRAHAM R.
CORRADO, LUANN
COSGRAVE, MICHAEL C.
COULLAHAN, MICHAEL J.
COWAN, SHAWN R.
COWDREY, JOEL H.
COWEN, JAMES A.
COX, BRIAN E.
COZART, WILLIAM H.
CREEL, MARLO L.
CREEL, RONALD L.
CRISP, MICHAEL C.
CROW, DANIEL J.
CRUM, CARTER D.
CRUMP, PAUL A.
CUMMINGS, JOSEPH E.
CUOZZO, DANIEL J.
CURRY, TIMOTHY S.
CURTIS, KIRSTEN L.
DAHM, JOHN M.
DAMANI, MINAL B.
DANGREMOND, MITCHELL W.
DANIELS, JOHN K.
DART, DAVID M.
DASENBROCK, JACE F.
DATTA, VIKRAM K.
DAVIS, JEFFERY P.
DAVIS, KEVIN W.
DE FRANK, E SIM
DEADWYLER, GABRIEL R.
DEAL, DAVID A., JR.
DECKMAN, STEPHEN M.
DEFRIAS, ANTONIO JR.
DEGRANGE, WALTER C.
DELARIVAHERRERA, BORJA
DELUCA, DAVID C.
DENEZZA, MATTHEW R.
DESAI, NIRAV G.
DESLICH, STANLEY J.
DEUTSCHER, BRETT J.
DEVORE, GREGORY S.
DIAZ, JOSE M.
DIETRICK, GLENN T.
DIETZE, BRYAN C.
DINEEN, BRIAN R.
DIXON, CORY A.
DOBESH, MARK D.
DOHERTY, RACHAEL T.
DOMICO, CHRISTOPHER C.
DOMINGUEZ, SHAWN C.
DONAHUE, DARREN P.
DONAHUE, MARK M.
DONALD, ELLIOTT J.
DONALDSON, LEE A.
DONLY, CHARLES E.
DONNELL, DENISE M.
DORAN, THOMAS C.
DOREY, HARLAN F.
DORN, LAWRENCE T.
DOUGLAS, MICHAEL L.
DOUGLASS, BRIAN P.
DOWDY, CARTER C.
DOWLER, DAVID M.
DUARTE, SCOTT D.
DUERDEN, JOHN D.
DUMMER, JOSEPH W.
DUNBAR, CHRISTIAN A.
DUNCAN, JAMES E.
DUNCAN, ROBERT B.
DUNSMOOR, BARRY L.
DURKEE, BRYAN W.
DUZAN, KEVIN L.
DWYER, BRIAN S.
EASTERLING, VALERIE M.
EBEL, JONATHAN H.
EDGE, DOUGLAS E.
EDWARDS, BLAKE A.
EDWARDS, DEREK W.
EHLERS, ANDREW C.
EITNER, KEITH D.
ELLIS, DAVID A.
EMORY, BRIAN L.
ENGLEN, DARIUS T.
ENGLISH, DION D.
ENGMAN, LARS E.
ERICKSON, DAVID G.
ERICKSON, GREGORY J.
ERWIN, JAMES O., IV
EUBANK, CRAIG A.
EVANS, KEVIN W.
EVANS, TIMOTHY J.
FABIAN, RICHARD A.
FAHS, THEODORE R.
FARRENS, JAMES E.
FARRIOR, WILLIAM R.
FARTHING, JOHN M.
FAVATA, MICHAEL A.
FEHSKENS, SUZANNE M.
FELICIANO, JOAQUIN B.
FENDER, LONNIE M.
FERENCSIK, MICHAEL R.
FIELDS, APRIL L.
FINKBEINER, JOHN A.
FIRESTONE, STEPHEN B.
FISHER, JEFFREY M.
FISHER, MARK M.
FLANIGAN, DAVID A.
FLANNERY, KEVIN A., JR.
FLANNERY, THOMAS J.
FLEISCHMAN, JEFFREY W.
FLEMING, MICHAEL F.
FLEMING, THOMAS A., JR.
FLENKER, TERRA L.
FLETCHER, CHRISTIAN A.
FLOTTEN, ANDREWS S.
FORD, JAMES P.
FORESTER, SCOTT A.
FORTIN, CHRISTOPHER F.
FOSTER, DARYL D.
FOWLER, ERIK J.
FOWLER, JOHN R.
FOX, BRIAN R.
FOY, RONALD A.
FRANCHUK, CHRISTOPHER L.
FRANCISCO, GREGORY M.
FRANKLIN, ANTHONY A.
FREDERICK, PAUL A.
FUDAL, SCOTT M.
FULLER, ROBERT L.
GADDIS, DAVID O.
GAGNON, DEREK A.
GAINER, ANDREW D.
GALLIMORE, DANIEL A.
GALVIN, JOHN C.
GANNON, COREY J.
GARCIA, JUAN C.
GARCIA, RONNIE A.
GARMENDEZ, RUDDY E.
GARRETT, ANDREW W.
GARRETT, TODD L.
GARRISON, BARTON J.
GARVEY, SCOTT A.
GASS, SEAN D.
GATES, JOSHUA H.
GEPHART, ROBERT T.
GERKEN, JOHN D.
GERSTEMEIER, ROBERT C.
GIBBONS, LAWRENCE M.
GIBBONS, TODD J.
GICK, JOSEPH R., JR.
GIDDEN, CHRISTOPHER W..
GILARDI, BINGHAM R.
GILBREATH, BRIAN L.
GILLETT, JOHN B., III
GILLI, LEANA R.
GIOIA, CARA M.
GLAZE, GEORGE F., III
GLIDDEN, ERIC S., II
GLOVER, LARRY J.
GOEPFERD, IAN A.
GONZALES, HENRY
GONZALEZ, FRANCISCO A.
GOODRICH, TONY R.
GORDON, CHRISTOPHER S.
GORDON, ROBERT C.
GORKOWSKI, JOHN
GORMAN, GREGORY H.
GORMICAN, TUAN A.
GRABOWSKI, MICHAEL J.
GRADY, JENNIFER E.
GRAHAM, MATTHEW M.
GRAHAM, SHARON L.
GRAMBLEY, WILLIAM F.
GRANNAN, WILLIAM J., JR.
GRANT, ANDREW G.
GRASSI, CHARLES R.
GRASSI, FRANK T., JR.
GRAY, GWEN D.
GRAY, HOWARD C.
GREEN, JOSEPH B.
GREEN, KELVIN W.
GREEN, LEE A.
GREENSTEIN, EGAN H.
GRIMSRUD, KENT A.
GROGAN, DAVID E.
GROW, ANTHONY C.
GUINTO, ALBERT T.
HAEFLINGER, MARCIA L.
HALIN, AMY L.
HAM, WILLIAM K.
HAMILTON, MATTHEW L.
HAMILTON, OVELL
HANCOCK, JEFFREY A.
HANRAHAN, PATRICK D.
HANSEN, GERALD J., JR.
HANTHO, KARL A.
HARBACH, DAVID V. II.
HARDING, JENNIFER L.
HARMAN, GREGORY J.
HARRINGTON, TIMOTHY L.
HARRIS, BRANDAN D.
HARRIS, CHRISTINA M.
HARRIS, DOUGLAS A.
HARRISON, MARK L.
HARRISON, THOMAS C.
HART, DEBORAH A.
HASCALL, ANDREW M.
HASH, THOMAS W.
HASSELBERG, CHRISTIAN M.
HATFIELD, BRITT H.
HATHAWAY, HEATHER N.
HAUSE, RANDALL K.
HAYES, JENNIFER C.
HAYES, MICHAEL E.
HAYES, RICHARD D., III.
HAYES, SEAN P.
HAYS, JAMES A.
HEALY, KEVIN P.
HEIDEN, JOHN D., JR.
HELD, JONATHAN S.
HENDERSON, RHONDA M.
HENDRIX, SCOTT A.
HENNING, SHAWN T.
HENNINGS, BRIAN D.
HENRI, PHILIP P.
HERAVI, ARMIN D.
HERNANDEZ, MARIA EDEN, S.
HERVEY, OUDREY
HESS, MICHAEL D.
HESTER, JAMES B.
HIGGS, ROBIN L.
HILGEFORT, KURT A.
HILL, BRUCE A.
HILL, DARNELL L.
HIMES, JOSHUA C.
HINTZ, REWA C.
HODGDON, DON M.
HODGES, CODY L.
HOFFMANN, JOSEPH M.
HOJNACKI, LORI J.
HOLCOMBE, ANGELA M.
HOLLAND, MICHAEL L.
HOLLETT, GRANT T., IV.
HOLT, DOUGLAS E.
HOLT, JOEL D.
HONECK, PATRICK C.
HOPPER, DAVID
HRONCICH, JOHN M.
HUBER, DAVID L.
HUGGINS, CHARLES T., III.
HULL, ANTONIO D.
HUMPHREY, JAMES H.
HUNERMUND, CARL R.
HUNT, ROBERT L., JR.
HUNTER, JOHN B.
HURT, SHAWN J.
HUTCHINSON, CRAIG D.
HUVANE, PATRICK J.
HYDE, ROBERT H.
ILSTRUP, BLAKE A.
INFANTE, PATRICK S.
INGRAM, JAMES P.
ISBELL, CHRISTOPHER C.
ITO, THEODORE M.
IVERSEN, MARK R.
JACKSON, DONALD A.
JACKSON, JAMES B.
JACOBS, BRADLEY D.
JACOBSEN, ERIC A.
JAEGER, HARRY A.
JAMES, JASON C.
JANKOWSKI, TIMOTHY S.
JENKINS, THOMAS M.
JEPPESEN, JENNIFER A.
JERINSKY, SERENA M.
JOHNSON, AARON D.
JOHNSON, ALEX C.
JOHNSON, BRENT D.
JOHNSON, DAVID W.
JOHNSON, ERIC R.
JOHNSON, HIRAM S.
JOHNSON, JEFFREY C.
JOHNSON, MICHAEL B.
JOHNSON, MICHAEL D.
JOHNSON, SCOTT G.
JOHNSON, SUZANNA K.
JOHNSON, WILLIAM E.
JOHNSON, CASTON CHRISTINE
JONES, KIMBERLY L.
JONES, MATTHEW R.
JORDAN, MICHAEL B.
JUNG, HYUN J.
KAHL, CHARLES G.
KALLEBERG, WALTER L.
KAMAGE, GEORGE M., III
KAMAN, JEFFREY S.
KANAS, JEFFREY T.
KARVER, ROBERT W.
KARWOSKI, TAMARA L.
KASCHAK, KRISTOPHER M.
KAZMIER, MICHELE M.
KAZMIERSKI, JOHEPH R.
KEANE, EDWARD L.
KEARNEY, THOMAS J.

KEE, ROGER A.
KEITH, STEPHEN T., JR.
KELLER, KATIE L.
KELLEY, STEPHEN A.
KELSO, GLENN D.
KELSO, MARK T.
KENNEDY, MATTHEW R.
KENNEY, MICHAEL D., JR.
KENT, ABSOLON S.
KENT, PHILLIP A.
KENTCH, SEAN R.
KEOUGH, TIMOTHY E.
KETTER, TIMOTHY N.
KETTERMAN, LISA L.
KEY, SCOTT A.
KEYSER, DAVID M.
KIBLER, MICHAEL M.
KIESEL, MARTIN P.
KIGGANS, STEVEN W.
KILL, JOHN M.
KINCAID, DOUGLAS W., III
KING, MICHAEL J., II
KIRK, BRIAN D.
KISSINGER, SHERWOOD S.
KLINE, JOSEPH C.
KLOEWER, MITCHEL J.
KNEPPER, GREGORY D.
KOELSCH, ANDREW P.
KOHLER, PETER M.
KOPACH, CHRISTOPHER R.
KOTTKE, KARL W.
KOTWICK, PHILIP J.
KROGH, KEVIN M.
KRUEGER, THOMAS A.
KRUS, CHRISTOPHER J.
KUBAS, BRIAN C.
KUEHL, JAMES W.
KULAKOWSKI, PATRICK E.
KURDIAN, ARMEN H.
LABOR, THOMAS P.
LABRUZZO, JON PAUL R.
LACY, ROBERT T.
LANDEFELD, HANS P.
LANEY, PATRICK S.
LANGE, TREVER L.
LANGLEY, JAMES E.
LAPP, MARLON J.
LARSON, ADAM P.
LAUPER, WILLIAM M.
LAWLER, KATHLEEN M.
LAWSON, EDWARD D.
LE, CHRISTOPHER L., GRA
LEACH, EFREM R.
LEAVITT, MARK S.
LEE, FITZHUGH S.
LEFEBVRE, GARY S.
LEFRAK, DOUGLAS W.
LENTO, ROBERT J.
LEON, EMILY
LEWIS, JAMES G.
LEWIS, MICHAEL
LEWIS, MICHAEL T.
LEYDEN, SEAN M.
LEYSER, MATTHEW R.
LIEBESKIND, KAREN M.
LIERMAN, DARYL W.
LIM, R. AUGUSTUS Z.
LIMA, DEBRA C.
LINDER, ROBERT W.
LINDSTROM, DAVID C.
LINN, KENNETH D.
LIPPINCOTT, STEVEN C.
LISSY, GREGORY P.
LITO, DOUGLAS W.
LITTLE, EDWARD G.
LIZALDE, JESSE
LO, MICHAEL C. RUS
LOGAN, CPATRICK
LONG, KEVIN D.
LOPEZ, MICHAEL A.
LOUGHNANE, BRIAN J.
LOUNSBURY, DAN T.
LOUWERS, THOMAS D.
LOVLIE, RODNEY D.
LUCAS, SARAH E.
LUND, STEVEN J.
LUONGO, KELLY A.
LYCZAK, NATHAN R.
LYONS, THOMAS H.
MACDONALD, WILLIAM A.
MACK, LLOYD B.
MAGI, PETER D.
MAHELONA, SHANE K.
MAHOOD, REECE F.
MAITRE, ALEXANDER S.
MAJORS, CHRISTOPHER D.
MALONEY, PAUL T.
MANALO, GILBERT B.I.
MANFREDI, DOUGLAS K.
MANN, MONTE W.
MANSISIDOR, MICHAEL R.
MAPLE, NORMAN E.
MARKIEWICZ, JAY T.
MARKLE, HOWARD B.
MARKLE, STACY L.
MARLAR, JON C.
MARSH, STEPHEN A.
MARSHALL, LEONARD E.
MARTIN, CHRISTOPHER T.
MARTIN, RODNEY A.
MARTIN, VINCENT S.
MARTINEZ, EDUARDO Z.
MARTINEZ, JOHNNY R.
MATHENA, TRACY L.
MATTFIELD,STUART M.
MAU, ROBERT S.
MAURAO, MICHAEL P.
MAY, ANTHONY D.
MCANALLY, CHRISTOPHER J.
MCBRIDE, ROBERT T.
MCCARTHY, WILLIAM D.
MCCARTY, ERIC D.
MCCURDY, ALLISON L.
MCDERMOTT, MOLLY A.
MCDONALD KEDRON A.
MCFARLAND, ANDREW J.
MCGEE, SHEILA M.
MCGINNIS, SHAWN W.
MCIVER, EVANDER R.
MCKELLAR, ALAN N.
MCLEAN, COLIN M.
MCMAHON, GREGORY S.
MCPHERSON, BOBBY D., II
MCROBERTS, BRYAN S.
MCVEIGH, PATRICK J.
MEDRANO, ANTHONY P.
MELLEN, WILLIAM R.
MESTERHAZY, PAUL M.
MEYER, BRENT T.
MICHALKA, PAUL M.
MICKEY, SHANNON A.
MIERKE, PETER F.
MIKULICH, MICHELLE J.
MILLER, AARON D.
MILLER, GEOFFREY B.
MILLER, HELEN L.
MILLER, JAMES E.
MILLER, KIMBERLY I.
MILLS, MICHAEL F.
MILTON, REBECCA M.
MINTER, CHARLES A.
MITCHELL, ERIC S.
MITCHELL, ROBERT S.
MOE, SCOTT T.
MOELLERING, RICHARD W.
MOLINARI, JOHN J.
MONACO, SANDRA L.
MONEYMAKER, MATHEW T.
MONROE, CHRISTOPHER T.
MONTEHERMOSO, RONALD C.
MONTERO, BENNETT N.
MOON, DEAN T.
MOORE, JEFFREY A.
MOORE, JENNIFER A.
MOOREHEAD, CHRISTOPHER L.
MORAN, PATRICK J.
MORENO, EDGARDO A.
MORGAN, ERIC A.
MORGAN, WALTER S.
MORLATT, WAYNE R.
MORRIS, MATTHEW G.
MORROW, DONALD E.
MORSE, MICHELLE D.
MOSLENDER, BRANDT A.
MOSLEY, SCOTT F.
MOYER, NATHAN J.
MULL, BENJAMIN C.
MULLIGAN, CHRISTOPHER T.
MUNNINGHOFF, AMY L.
MURREE, DAVID F.
MYRTER, BERNARD J.
NADEAU, MICHAEL J.
NARVAEZ, EMMANUEL J.
NASAL, KEVIN J.
NASAU, STEVEN T.
NELSON, ANDREW C.
NELSON, JOSEPH W.
NESBIT, ERIC C.
NESS, CHRISTOPHER A.
NEVAREZ, FRANK E.
NEVILLE, DAVID M.
NEWCOMER, BRADLEY P.
NOBLE, NICHOLIE T.
NOLES, SHEILA A.
NOONAN, GEOFFREY P.
NOTTER, DAVID E.
NOVOTNY, SCOTT J.
OBRIEN, PHILIP
ODEN, DONALD C.
OESTERLE, ROBERT W.
OETINGER, WAYNE D.
OLEARY, THOMAS R.
OLSON, GEORGE P.
OLSWOLD, BRIAN J.
ONEAL, DANIEL P.
ONEAL, JOHN C.
OREILLY, CHRISTOPHER J.
ORVIK, ROSS B.
OSBORN, ROBERT L.
OTTO, JOHN N.
OUELLETTEE, GREGORY A.
OXENDINE, ELIAS, IV
PALAZZI, ROBERT A., JR.
PALMER, ADAM D.
PALUMBO, KASSIA A.
PANTLING, CAREY M.
PARADELA, STEVEN R.
PARKER, GREGORY L.
PARRINO, MICHAEL C.
PARRISH, WILLIAM J.
PATTERSON, CHAD S.
PATY, ROBERT M.
PAYNE, TODD A.
PEABODY, ALEXANDER L.
PEAK, ANTHONY
PEAK, PATRICK M.
PEARSON, KATHERINE F.
PENDERGRAST, JOSEPH E.
PENTECOST, RICHARD P.
PERREAULT, MARK C.
PERRY, VINCENT J.
PETERLIN, MARGARET J.
PETERSON, FRANK R.
PETERSON, KENT E.
PETRINA, MARKIAN G.
PFAEFFLE, HERMAN O.
PICCO, JOHN B.
PIERCE, ANDREW J.
PINKSTON, DANA L.
PITTS, JOHN G.I.
PLAGGE, RICHARD M.
POPE, JOHN R.
POTHIER, MATTHEW R.
POTTER, AARON D.
PRESZ, CHRISTOPHER A.
PRICHARD, BRIAN R.
PRINCE, THEODORE A.
PROVENZANO, GARY P.
PUCKETT, CHRISTOPHER B.
PUGH, WILLIAM C.
QUIJANO, CARMELO M.
QUIST, KARL G.
RADZIK, CHRISTOPHER R.
RAGIN, ANDRE L.
RAMIREZ, ROLANDO
RAMIREZ, TONY J.
RAMSLAND, THOR A.
RASMUSSEN, PAUL E.
RAYLE, ANDREW L.
RAZZANO, JOSEPH J.
REA, JAMES G.
READY, STEPHEN E.
REDDEN, CHARLES W.
REESE, JERRETT R.
REGARD, ANDRE F.
REHKOP, CHRISTOPHER H.
REHOR, CHRISTOPHER J.
REILLY, VINCENT J.
REMOLL, ADAM J.
REPPAS, GREGORY T.
RESTIFO, CHRISTIAN M.
REYNOLDS, JAMES J.
REYNOLDS, PATRICK L.
RICE, LEE K.
RICH, THOMAS D.
RICHARD, ANGELA S.
RICHARDSON, DAVID B.
RIDGWAY, CHARLES P., JR.
RIGNEY, KEVIN M.
RINER, JOHN W.
RIOS, MARTIN
RISCHMILLER, JONATHAN D.
RITUMALTA, LYNNE G.
RIVERA, JOSEPH K.
RIVERS, BRUCE A.
ROBERTS, BUCKY J.
ROBERTS, FURMAN L.
ROBERTS, JEREMY M.
ROBERTS, MATTHEW C.
ROBERTS, MATTHEW P.
ROBERTS, PAUL J.
ROBERTSON, DANIEL S., JR.
ROBERTSON, WILLIAM C.
ROBINSON, GEROD F.
ROBINSON, SEAN W.
ROBISON, MICHAEL J.
ROCKWELL, DAVID G.
RODRIGUEZ, ANDRES G.
RODRIGUEZ, RICARDO I.
ROMAN, VICTOR M., JR.
ROSENBERG, HOLLY A.
ROSSETTI, RICHARD K.
ROTHAERMEL, KENNETH S.
ROWLAND, DAVID M.
ROYLE, MICHAEL R.
RUDBART, LOUIS E.
RUIZ, ROME
RUSSELL, TIMOTHY D.
RUZEK, BRYAN C.
RYAN, SEAN P.
SAARELA, DOUGLAS A.
SALVAGE, DAVID R.
SAN REUBEN, C. JUA
SANDERS, WESLEY S.
SANTOMAURO, THOMAS M.
SASS, STEPHEN V.
SCALCUCCI, SHANNON A.
SCARCELLI, JAMES F.
SCHAFER, KARI D.
SCHEERER, JOHN A.
SCHMIDT, CLIFFORD B., JR.
SCHNEE, GERARD J., JR.
SCHORN, BRIAN G.
SCHUL, CHRISTOPHER M.
SCHULZ, DARIN R.
SCHUMACKER, DAVID M.
SCHWARTZ, BRETT M.
SCIARA, SEAN A.
SCOTT, RANDLOPH H.
SCRUGHAM, RICHARD T.
SCUDDER, JEFFREY L.
SEAGER, RONALD L.
SEARS, DAVID C.
SEIB, ERIC O.
SEIGH, MARK R.
SELANDER, DAVID G.

SERGELIN, ANTONIN Z.
SETSER, KENNETH F.
SEVERSON, MERYL A., III
SHAFFER, BRANDON C.
SHARMAN, CHRISTOPHER H.
SHAY, MICHAEL P.
SHAY, TRACY J.
SHEAFF, CHRISTINA E.
SHERIDAN, CHAD F.
SHERIDAN, KELLY M.
SHIPLEY, BILLY G.
SHONTZ, DAVID R.
SHOQUIST, DEVIN M.
SHULMAN, JAIMIE N.
SIMERI, JAMES J.
SIMMONS, MARK A.
SIMON, JONATHAN
SIMONSON, TIMOTHY L.
SIMPSON, TELETHIA L.
SINNIGER, JOSEPH D.
SION, JOHN J.
SISCO, LEE P.
SISSON, WARREN E.
SKONE, MATTHEW R.
SKROCH, ERIC M.
SLATER, STEVEN J.
SLENTZ, TIMOTHY J.
SLOVER, JAMES D.
SMITH, BENJAMIN P.
SMITH, BRIAN E.
SMITH, CHRISTOPHER L.
SMITH, JOEL T.
SMITH, KATHERINE C.
SMITH, KENNETH D.
SMITH, ROBERT M.
SMOLEY, BRIAN A.
SNYDER, ROBERT E.
SNYDER, WILLIAM H., III
SONON, MARCIA S.
SORICH, DAVID W.
SORCE, STEVEN R.
SPAULDING, SCOTT K.
SPEED, JASON L.
SPEICHER, DAVID C.
STAFFORD, WILLIAM B.
STAMPFEL, ANDREW J.
STEELMAN, SHANE E.
STEIN, PAUL D.
STEVENSON, SHANE P.
STIBOLT, AMOS
STICE, CODY W.
STINNETT, BRIAN G.
STOKES, JASON K.
STONE, BRIAN J.
STORY, BRADLEY W.
STROBL, CARLA D.
STROUD, LAWRENCE V.
STRUCK, JASON J.
STUMM, ALBERT F., III
STURA, KURT A.
SULLA, JEFFREY P.
SULLIVAN, COLIN J.
SULLIVAN, JEFFREY M.
SWANDER, BRADLEY C.
SWENOR, HENRY T.
SWIANTEK, KIRK M.
SYLVESTER, NATHANIEL C.
SYMONS, TIMOTHY E.
SZPINDOR, MATTHEW J.
SZURKUS, DENNIS, JR.
TABAKA, PAUL J.
TANGEN, RANDAL J.
TAYLOR, JOSEPH J.
TAYLOR, KENT L.
TAYLOR, MARCUS A.
TAYLOR, MICHAEL E.
TEICH, BENJAMIN J.
TEMPLE, JASON A.
THOMAS, RICHARD B.
THOMAS, STEVEN B.
THOMPSON, LISA M.
THOMPSON, PATRICK W.
THRUSH, LEE T.
TIERNEY, MARK R.
TILLMAN, DARRIS L.
TIMMERMEYER, JAMES P.
TIN, KELLY M.
TINKLE, EDWIN C.
TOMASI, ANGELA M.
TOMEK, DANIEL E.
TOMPKINS, STEVEN B.
TOOKER, SHAWN T.
TORREY, SCOTT M.
TOUSSAINT, CANE A.
TOUSSAINT, ELIZABETH K.
TOWINS, CHARLES M.
TOWNLEY, EDWARD J.
TRAUTH, KATHERINE A.
TREVISAN, RICHARD A.
TSCHOCHE, CHRISTOPHER R.
TUCKER, TYLER M.
TURBAK, RODNEY L.
TURCOTTE, EDWARD D.
TURNER, DANIEL P.
TYREE, CHRISTOPHER L.
UHAS, CHRISTOPHER J.
UHLIG, RONALD W.
ULATE, STEPHEN O.
UPDIKE, AMY L.
URBINE, DANIEL R.
UTHE, SCOTT C.
VACA, GABRIEL E.
VACCARO, RICHARD A.
VALENCIA, SAM J.
VAN BRIAN, D. OSS
VAN BRYAN, P. ITA
VANDENBERG, JOHN C.
VANSLYKE, JONATHON J.
VARNO, FRANK J.
VECCIA, TIMOTHY T.
VEGARA, BILLY J.
VELOTTA, JOHN A.
VERGARA, GUSTAVO J.
VERHAR, MICHAEL J.
VIDOSIC, DEBORAH A.
VILLA, JIANCARLO
VILLADSEN, OLE R.
VILLANO, PETER
VINCELETTE, CHAD P.
VINCI, GREGORY G., JR.
VIPPERMAN, STEPHEN M.
VIVAR, JONATHAN H.
VOAS, KEVIN S.
VOGEL, KRISTINA M.
VOLPE, FRANK P., JR.
VOLZ, KIMBERLY A.
VOVES, JOHN E.
VOZZOLA, STEVEN A.
WAGNER, CRAIG S.
WALCZAK, PETER J.
WALKER, RICHARD G.
WALL, SCOTT P.
WALLER, ELLIS P.
WALSH, JON B.
WALTON, ANDREW R.
WAMBERG, DODD D.
WATSON, DEREK L.
WEIDNER, MICHAEL A.
WEINA, JOEL B.
WEINSTOCK, HERSCHEL W.
WEIS, THOMAS P.
WELDON, MICHAEL C.
WELDON, ROGER A.
WELLS, ALLISON S.
WENKE, JOHN M., JR.
WENNERSTEN, STEWART M.
WENTZ, MARC A.
WESOLOWSKI, KENNETH T.
WESOVICK, ROBERT L.
WHALEN, JOSEPH P.
WHEARTY, STEPHEN M.
WHIPPLE, CORY J.
WHITE, JEROME R.
WHITE, KENNETH C.
WHITEHURST, MATTHEW S.
WHITMIRE, WILLIAM L.
WHYTLAW, THOMAS D.
WIEBER, KENNETH M.
WIELAND, GREG A.
WIEST, MICHAEL T.
WIGNES, ERIK J.
WILKERSON, CARR L., JR.
WILLIAMS, DARREN S.
WILLIAMS, JOSEPH A.
WILLIAMS, TIMOTHY G.
WILLIAMS, TROY S.
WILLIAMSON, IAN O.
WILLIS, DAVID R.
WILMES, JEANNINE M.
WINSTON, THELVIE R.
WINTER, THOMAS A.
WONG, ALAN C.
WORRELL, STEWART S.
WORTHY, ALAN M.
WOSJE, MICHAEL S.
WYSS, STEVEN A.
YAGER, MICHAEL J.
YECK, GLENN R.
YEEND, STEPHEN N.
YOKOYAMA, MELVIN K.
YOUNG, PAUL D.
YOUNGBLOOD, SCOT A.
YOWELL, LEONARD L., JR.
YU, PHILIP W.
ZANGER, MICHAEL S.
ZARATE, CATHY J.
ZEIGLER, KARL A.
ZIEGENBALG, BRETT D.
ZILLMER, JEFFREY B.
ZIMMERMANN, ELIZABETH A.
ZINK, JAMES H.
ZIRBEL, MATTHEW W.
ZIRKLE, DARYK E.

WITHDRAWAL

Executive message transmitted by the President to the Senate on November 4, 1993, withdrawing from further Senate consideration the following nomination:

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

LARRY E. BYRNE, OF VIRGINIA, TO BE ASSOCIATE ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT, VICE SCOTT M. SPANGLER, RESIGNED, WHICH WAS SENT TO THE SENATE ON SEPTEMBER 30, 1993.