HOUSE OF REPRESENTATIVES—*Monday, November 8, 1993*

The House met at noon and was called to order by the Speaker pro tempore [Mr. MONTGOMERY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
November 8, 1993.

I hereby designate the Honorable G.V. (SONNY) MONTGOMERY to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

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

We pray, almighty God, that the wisdom of all the days past will guide us with the concerns of the new day; we pray that we will respond to the challenges that bear mightily down on our Nation with an integrity that expresses the best of character; we pray our words will be forthright and our actions trustworthy, that in all things we may do the work of justice and mercy this day and every day. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair recognizes the gentleman from Kentucky [Mr. MAZZOLI] to lead the House in the Pledge of Allegiance.

Mr. MAZZOLI led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

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

H.R. 175. An act to amend title 18, United States Code, to authorize the Federal Bureau of Investigation to obtain certain telephone subscriber information, and

H.R. 1345. An act to designate the Federal building located at 280 South First Street in San Jose, California, as the "Robert F. Peckham United States Courthouse and Federal Building."

The message also announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title: "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 also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 732. An act to provide for the immunization of all children in the United States against vaccine-preventable diseases, and for other purposes.

THE VOTERS WANT CAMPAIGN FINANCE REFORM NOW

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

Mr. MAZZOLI. Mr. Speaker, there has been a lot of spin doctoring about the elections of last Tuesday, but I think some points are clear. The voters have rejected the status quo. They have rejected business as usual. The voters have voted for the outsiders against the insiders, and they have voted very loudly and clearly for change.

They are voting for changes in government, Mr. Speaker, and change in the political structure, changes in how people achieve public office. And, it is today that I express a great sadness that we are now 1 year into the 103d Congress and we have not passed campaign finance reform.

All of us knew, coming in last January, that something had to be done about spending limits, something had to be done about political action committees, something had to be done about bundling and soft money, but to this date, Mr. Speaker, nothing has been done.

I am encouraged by expressions that we will reach campaign reform before Thanksgiving, but the issue will not be put to the President's desk until next year. That is really unfortunate because the voters have indicated they want change. We need to deliver that change now.

LEAVING THE STATION

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

Mr. HEFLEY. Mr. Speaker, tomorrow, the Senate starts considering congressional reform legislation, but here in the House the promise of reform is only a fleeting fantasy.

Once again, the reform train leaves the station, but House Democrats will not even buy a ticket.

Mr. Speaker, the House Democratic leadership has stymied the Joint Committee on the Organization of Congress from achieving real congressional reform.

The Democratic leadership has stalled any markup, rejected any bold measure, and derailed all efforts that challenge their 40-year stranglehold of this institution.

We need real congressional reform. We need a budget process that makes it easier, not harder, to cut spending first. We need to make politicians accountable to the laws they pass on to the people. And we need to open up the process so that every Representative can contribute to the legislative process.

Mr. Speaker, the reform train is leaving the station. The House needs to get on board before the American people are left behind once again.

A "HOT" AND SAUCY STORY

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

Mr. SKAGGS. Mr. Speaker, debunking the myths and misinformation about NAFTA has been an uphill battle. Phrases like "a giant sucking sound" resonate more loudly than "sound economic indicators."

There is a real life story I like to tell, though, which makes the case for NAFTA better than any statistic or projection.

Three years ago, the company that makes Pace picante sauce rented a grocery store in Mexico City to film a TV commercial. After the shoot, rather than lugging all 350 jars of salsa back to the United States, Pace told the Mexican grocer to hang onto the products, maybe stick on some price tags and see what happened. Within 2 weeks all 350 jars were gone and the Mexican grocer was begging for more. American-made Pace picante sauce has since grabbed 11 percent of the market in

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Mexico. Talk about selling coals to Newcastle.

What this story says to me is that American products can compete if given the opportunity. And that is what NAFTA's about—creating opportunities: new markets, higher wage jobs, and a cleaner environment. Right now, the trading deck is stacked against us. The United States market is relatively open to Mexican goods but Mexico sharply restricts American access to its market. NAFTA promises to even this up, expanding U.S. export growth potential. NAFTA will knock down trade barriers and open the door to more success stories for American workers and businesses.

BUDGET SIMPLIFICATION A PRIME INGREDIENT OF CONGRESSIONAL REFORM

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

Mr. ALLARD. Mr. Speaker, it always surprises me when Congress claims it achieved savings by failing to spend as much as had been projected the year before. We then go on to spend the imaginary savings on new programs. It is incredible that this is allowed to continue. Part of the reason this happens is due to the mind-boggling complexity of our budget.

As many suspect, Congress operates by the maxim that, "If you can't dazzle them with brilliance, baffle them with you know what." An average of 200 bills are introduced per session to combat this problem. It is a clear indication of the agreement among Members that the budget is not reliable in its present form.

I feel a simplified budget would be valuable for a number of reasons. We could remove some of the unnecessary complexity by utilizing line-item budgeting. This tool would make our expenditures more identifiable. Many unworthy spending programs are protected by inclusion in general categories.

Fairness in budgeting is another reason to simplify the process. This is a climate where every program should be placed on the table and funded on its merits. Programs which are already accessible often receive more than their fair share of scrutiny. If most of our programs were clear line-item amounts, reductions could be spread more evenly.

Finally, a simplified budget would improve the budget process. Congress wastes too much time debating which baseline to use and which accounting procedures should constitute a spending reduction. For too many years Members of Congress have been able to use this intricate system to fund unnecessary spending. Simplifying the budget would demonstrate an honest commitment to making Congress and its budget accountable.

By the way, Mr. Speaker, the Senate is moving ahead on congressional reform. Why is the House not doing the same?

CALLING ON PRESIDENT CLINTON TO SUSPEND NAFTA AND SAVE THE DEMOCRAT PARTY

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

Mr. TRAFICANT. Mr. Speaker, American workers helped to elect Bill Clinton; American workers oppose NAFTA; President Clinton now supports NAFTA; all of this forcing the Americans workers to turn to an independent, an independent that is really a Republican.

As a Democrat, I say "beam me up." NAFTA is not only going to destroy jobs, it is tearing apart the core of the Democrat Party that must now defeat NAFTA, but it is also propelling a major third political party. This debate, a side show, has turned NAFTA, in my opinion, into a dog and pony show.

Mr. Speaker, I am asking the President to suspend NAFTA before the Democrat Party is completely decimated. I do not know who was advising the people at the White House or the leaders of the Democrat Party, but it sure as hell was not the American workers and the people who voted for Democrats.

AMERICAN POLICIES PROMOTE VALUES EXPRESSED BY THOMAS JEFFERSON: INDUSTRY, IMPROVEMENT, AND SELF-SUFFICIENCY

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

Mr. THOMAS of Wyoming. Mr. Speaker, sometimes this Congress is so consumed by its own voice and those of the beltway media that it is difficult for the feelings expressed at home to come through the din.

Henry Bailey, a lawyer and friend from Cheyenne, expresses eloquently the feelings of many. He says:

> Sandy and I are doing our best to raise seven children in an economy, a Nation, and a world of uncertainties, trying to provide for their needs—and at the same time teach them to work and provide for themselves. I worry that the messages from Washington, in the form of policies President Clinton is trying to force-feed us, teach them lessons very different about what it takes to succeed in life.

Mr. Bailey further says that Mr. Clinton has often invoked the name of Thomas Jefferson—he should read Jefferson's inaugural:

> A wise and frugal government, which shall restrain men from injuring one another, which shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government, and this is necessary to close the circle of our felicities.

□ 1210

Mr. Bailey's and Mr. Jefferson's thoughts are not often heard here.

NAFTA BAD FOR MONTANA

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

Mr. WILLIAMS. Mr. Speaker, for the past almost full year I have considered NAFTA and my vote for or against it. I visited with people on both sides. I have had briefings for people both for and against. I have read the issue papers and briefings that have been sent to me.

I have decided now to vote "no" on NAFTA. Both sides are guilty of oversell. The agreement is neither that good nor is it that bad.

In deciding my vote on NAFTA I used as a model America's last trade agreement, the Canadian Free-Trade Agreement. It is almost 4 years ago that that agreement went into effect with many promises of how good it would be. And it has turned out to be bad, very bad for Montana's agricultural producers.

It is primarily for that reason that I will vote "no" on NAFTA.

WHAT IS CONGRESS DOING ABOUT CRIME?

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

Mr. MICA. Mr. Speaker, last week, the House of Representatives and its leadership robbed the already victimized American people. With their famous smoke and mirror routine they flashed more cops on the beat and puffed more smoke into prison treatment programs. This week, we will finish the assault by making certain that law-abiding citizens jump another hurtle to defend their life, liberty, and property.

But while Congress is committing this slight of hand, should someone not ask—

What happened to legislation to keep repeat offenders behind bars?

What happened to speeding up the tortoise paced criminal judicial process?

What happened to capital punishment for Federal capital crimes?

What happened to legislation to make the punishment fit the crime?

What happened to pledges to stop the criminal revolving door?

Once again Congress and its leadership has assaulted the public's demands, robbed us of an opportunity to

stop being the victim, and now will disarm us.

RETURN ARISTIDE TO HAITI

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

Mr. OWENS. Mr. Speaker, the struggle in Haiti has taken a new downturn. The U.S. Envoy, Dante Caputo, has left and given up in the negotiations with the military there.

This is a struggle between the international community and the international drug cartel, which owns Haiti. Haiti is the second-largest transshipment point for cocaine moving from Colombia onto the streets of America. The cocaine drug lords support the military and allow them to stand stubbornly in the face of international pressure.

Despite the refusal of the CIA to acknowledge it, the truth is that Haiti is an island already owned by the Colombian drug lords. Either the drug lords will continue to rule Haiti, or Aristide, the elected constitutional head of the country, will be allowed to be returned.

The United States and the international community should act immediately to save our children from new supplies of drugs and to save Haitian democracy. Aristide must be returned, and he must be returned now.

TURNING A DEAF EAR

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

Mr. GOSS. Mr. Speaker, Congressional leaders continue to turn a deaf ear to the pleas of the American people who, in overwhelming numbers, demand spending cuts. Yet the chairman of the other body's powerful appropriations committee, over the weekend was quoted "we've already been cut to the bone on discretionary spending." Report after report from the grace commission to current GAO reports show that is not so in the background of our $250 billion annual budget deficit; our $4-plus trillion national debt; and the hundreds of billions of dollars of waste every year. How can anyone in leadership seriously imply discretionary cut are off limits? Attempts by the liberal leadership are being made to shut down recommendations of a bi-partisan group of members who identified $103 billion in spending cuts. Americans care and Americans are raising their voices and voting to send a message—we need to reach those most hard of hearing in this institution. The message is cut spending now.

NAFTA: WE CANNOT AFFORD TO SAY NO

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

Mrs. SCHROEDER. Mr. Speaker, I rise today in favor of NAFTA, a forward-looking agreement that will create jobs in the United States and strengthen our ability to compete with Europe and Japan.

NAFTA will remove Mexican tariffs, allowing greater access to the Mexican market for our most competitive products. Increased exports to Mexico will spark United States economic growth. The Congressional Budget Office estimates an increase in the U.S. GDP by at least $73 billion over 5 years. This will result in $13.8 billion in additional Federal tax revenues.

Such an increase in U.S. exports means more jobs for Americans here at home. The economy of my home State, Colorado, benefits significantly from exports. In fact, Canada is Colorado's second largest trading partner and Mexico is Colorado's sixth. From 1987 to 1992, trade between Colorado and its northern and southern neighbors more than doubled, reaching $673 million by 1992. This represents almost 18,000 jobs, and makes trade with Canada and Mexico the largest private sector employer in the State.

Exports to Mexico spurring job growth is not simply a Colorado phenomena. During the past 5 years, States like Illinois, Minnesota, Wisconsin, Kentucky, and Ohio have seen significant job growth directly caused by trade with Mexico. In Illinois, for example, $1 billion growth in exports to Mexico generated 17,000 new jobs. By 1995, NAFTA will create 200,000 more export-related jobs here in the United States. The benefit to Colorado and America is clear. We cannot afford to say "no."

NAFTA NEXT STEP TO REDUCING WORLD TRADE BARRIERS

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

Mr. BOEHNER. Mr. Speaker, the North American Free-Trade Agreement is necessary, and my colleagues and I ought to be supporting it.

Why? Because NAFTA is another step forward in the 40-year struggle America has led around the world to reduce trade barriers, to open up trade to help not only America but other countries in the world.

But whether NAFTA is passed or failed, NAFTA in and of itself is just a small issue. The much broader issue is what is the signal that we send to America, that we send around America and around the rest of the world if we do no pass NAFTA? What are we telling the Europeans and the Pacific rim and others about what America's intentions are?

Are we going to compete or are we going to retreat?

I think it is important, Mr. Speaker, that we tell the world that we take up the challenge, that we will compete. But we shall only do that by taking the next step forward, by passing NAFTA.

UNITED STATES SETS DANGEROUS PRECEDENT IF NAFTA FAILS

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

Mr. RICHARDSON. Mr. Speaker, like President Clinton and many Democrats that are for NAFTA, I have been supported by organized labor in all of my elections. In fact, over 10 years in Congress I have had a 90-percent-plus record in favor of their issues.

Yesterday President Clinton took a courageous stand when he criticized organized labor for their stand on NAFTA.

Mr. Speaker, when our friends are wrong, like labor is on NAFTA, we should not hesitate to tell them so.

Mr. Speaker, if NAFTA is not approved, President Clinton and this country's ability to get the Uruguay round of the GATT talks approved will also be in doubt, because the Europeans and the Japanese are not likely to risk alienating voters at home if they think the United States Congress is going to squelch the deal anyway.

Our moral authority to persuade other nations to support free trade would most certainly be eroded if NAFTA fails. We will set a very dangerous precedent if NAFTA fails.

The day after the NAFTA vote, President Clinton meets with Asian leaders in Seattle to push for free trade. It would be a devastating setback to the President if on the eve of this meeting we rejected NAFTA here in the Congress.

In my opinion, NAFTA will not only serve to create jobs for America, but it is also vital to strengthening our leadership around the world. Remember, over 70 percent of job growth in recent years has come from exports.

Contrary to what my friends in Labor say, NAFTA is a good deal for American workers.

I urge your support on NAFTA.

PRESIDENT IS RIGHT IN CRITICIZING AMERICAN LABOR MOVEMENT

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

Mr. PORTER. Mr. Speaker, the President is absolutely right in his criticism of the American labor movement and its opposition to NAFTA. American labor leaders, unfortunately, are trying to justify themselves by opposing NAFTA, but instead are showing a lack of vision and the playing to fears and

prejudices that too often have been their hallmark.

American labor is selling American workers short. They are the most productive workers in the world and America is the world's greatest exporter—not Japan, nor Germany, but the good old USA.

Can we compete with a weak economy to our south and a tiny economy to our north? Of course. Do lower wages in Mexico mean American business will move there wholesale? Of course not. If that were the case, they would already have done so and Mexico would be the world's strongest economy not the United States.

Mr. Speaker, it is time for the demagogs to stand down and for the United States to lead the world to more free trade and a better life for all people. American labor leaders sell America and its productive, competitive workers far short.

The President is right.

□ 1220

SUPPORT NAFTA: HISTORY IS ON OUR SIDE

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

Mr. COPPERSMITH. Mr. Speaker, today's horoscope, as I was born on May 22, says to focus on authority, power, and durable goods.

So today I am going to focus on the latter. There is probably nothing more important that we could do for our durable goods industry than to support the North American Free-Trade Agreement.

Let us look at some trade statistics. I am indebted to David Hale, the chief economist of Kemper Corp., for these statistics: For 1992, the United States had a $5 billion trade surplus with Mexico, as opposed to a $75 billion trade deficit with East Asia. Why? Because United States firms account for 70 percent of Mexican imports and we have essentially a mere toehold in East Asia.

Since the 1960's, our trade policies essentially have sent thousands of jobs to East Asia. Those countries have enjoyed a 20-fold increase in their per capita incomes. If we had kept those jobs and that purchasing power in North America, we would be much better off today.

We have an opportunity to create jobs in this House on November 17. Let us not do the work of Japan; let us do the work for the United States.

Let us open up wide one of the most rapidly growing markets to U.S. exports. Let us pass NAFTA.

SUPPORT NAFTA: IT IS GOOD FOR MISSISSIPPI AND THE COUNTRY

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

Mr. MONTGOMERY. Mr. Speaker, I have two subjects I would like to cover. The first subject, I think NAFTA would be an overall plus for our Nation as well as my State.

Lifting tariffs on goods going into Mexico will make it more open to agricultural and forest products, electronic equipment and machinery, just to name a few.

A couple of years ago, Mr. Speaker, when Mexico reduced its tariffs from 40 percent to around 20 percent, business doubled for some of our manufacturing firms in Mississippi. Eliminating the tariffs altogether would bring even greater economic opportunities.

VETERANS DAY LEGISLATION AND VETERANS' BENEFITS

Mr. Speaker, the second subject that I would like to cover is: A month ago we mailed to each Member's office from our Committee on Veterans' Affairs a packet of information on Veterans Day and legislation passed in the House benefiting veterans. If my colleagues cannot locate that packet, if they would call the Committee on Veterans' Affairs, we will help them.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore (Mr. RICHARDSON) laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
November 8, 1993.

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

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Friday, November 5, 1993 at 4:50 p.m. and said to contain a message from the President wherein he transmits the extension of the agreement between the United States and Korea which constitute a governing international fishery agreement (GIFA) under the Magnuson Fishery Conservation and Management Act of 1976.

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

EXTENSION OF AGREEMENT BETWEEN UNITED STATES AND KOREA CONSTITUTING GOVERNING INTERNATIONAL FISHERY AGREEMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 103-161)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Merchant Marine and Fisheries and ordered to be printed:

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (Public Law 94-265; 16 U.S.C. 1801 *et seq.*), I transmit herewith an Agreement Between the Government of the United States of America and the Government of the Republic of Korea Extending the Agreement of July 26, 1982, Concerning Fisheries off the Coasts of the United States, as extended and amended. The agreement, which was effected by an exchange of notes at Washington on June 11, 1993, and October 13, 1993, extends the 1982 agreement to December 31, 1995. The exchange of notes together with the 1982 agreement constitute a governing international fishery agreement within the requirements of section 201(c) of the Act.

In light of the importance of our fisheries relationship with the Republic of Korea, I urge that the Congress give favorable consideration to this agreement at an early date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 5, 1993.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

Such rollcall votes, if postponed, will be taken after consideration of House Resolution 293.

AGE DISCRIMINATION IN EMPLOYMENT AMENDMENTS of 1993

Mr. OWENS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2722) to amend the Age Discrimination in Employment Act of 1967 with respect to State and local firefighters, law enforcement officers, and incumbent elected judges; and to amend the Age Discrimination in Employment Amendments of 1986 to prevent the repeal of the exemption for certain bona fide hiring and retirement plans applicable to State and local firefighters and law enforcement officers, as amended.

The Clerk read as follows:

H.R. 2722

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 "Age Discrimination in Employment Amendments of 1993".

SEC. 2. AMENDMENTS.

Section 4(j)(1) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(j)(1)) is amended by striking "attained the age" and all that follows through "1983, and", and inserting the following:

"attained—

"(A) the age of hiring or retirement in effect under applicable State or local law on March 3, 1983, or

"(B) if the age of retirement was not in effect under applicable State or local law on March 3, 1983, 55 years of age; and".

SEC. 3. REPEALER.

Section 3(b) of the Age Discrimination in Employment Amendments of 1986 (29 U.S.C. 623 note) is repealed.

SEC. 4. STUDY AND GUIDELINES FOR PERFORMANCE TESTS.

(a) STUDY.—Not later than 3 years after the date of enactment of this Act, the Chairman of the Equal Employment Opportunity Commission (in this section referred to as "the Chairman") shall conduct, directly or by contract, a study that will include—

(1) a list and description of all tests available for the assessment of abilities important for completion of public safety tasks performed by law enforcement officers and firefighters,

(2) a list of such public safety tasks for which adequate tests do not exist,

(3) a description of the technical characteristics that performance tests must meet to be compatible with applicable Federal civil rights Acts and policies,

(4) a description of the alternative methods available for determining minimally acceptable performance standards on the tests described in paragraph (1),

(5) a description of the administrative standards that should be met in the administration, scoring, and score interpretation of the tests described in paragraph (1), and

(6) an examination of the extent to which the tests described in paragraph (1) are cost effective, safer, tests and comply with Federal civil rights Acts and regulations.

(b) ADVISORY GUIDELINES.—Not later than 4 years after the date of enactment of this Act, the Chairman shall develop and issue, based on the results of the study required by subsection (a), advisory guidelines for the administration and use of physical and mental fitness tests to measure the ability and competency of law enforcement officers and firefighters to perform the requirements of their jobs.

(c) CONSULTATION REQUIREMENT; OPPORTUNITY FOR PUBLIC COMMENT.—(1) The Chairman shall, during the conduct of the study required by subsection (a), consult with—

(A) the United States Fire Administration,

(B) the Federal Emergency Management Agency,

(C) organizations that represent law enforcement officers, firefighters, and their employers, and

(D) organizations that represent older individuals.

(2) Before issuing the advisory guidelines required in subsection (b), the Chairman shall allow for public comment on the proposed guidelines.

(d) DEVELOPMENT OF STANDARDS FOR WELLNESS PROGRAMS.—Not later than 2 years after the date of the enactment of this Act, the Chairman shall propose advisory standards for wellness programs for law enforcement officers and firefighters.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000.

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

The Chair recognizes the gentleman from New York [Mr. OWENS].

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

Mr. Speaker, I rise in strong support of H.R. 2722, the Age Discrimination in Employment Amendments of 1993.

This legislation would permanently exempt State and local public safety agencies from the Age Discrimination in Employment Act in order to permit them to consider age in their hiring and retirement policies. Federal public safety agencies, including the Federal Bureau of Investigation and Federal firefighters, are already permanently exempted from the ADEA.

As a rule, Congress must avoid exempting whole classes of employees from the protection of civil rights laws unless it is absolutely necessary. We should not carve out exemptions merely because an employer finds civil rights compliance to be costly or inconvenient. Exemptions must be made only when there is a strong compelling need to do so and there is no other reasonable alternative. This is one of those rare instances.

State and local fire and police agencies must be exempted from the ADEA in order to protect and promote the safety of the public. This is literally a life or death matter. If police officers or firefighters cannot adequately perform their duties, people die and people get hurt.

Age does indeed affect an individual's ability to perform the duties of a public safety officer. This is not a stereotype. This is not ageism. This is a medical fact. Physical ability declines with age. For example, aerobic capacity declines at a rate of 1 percent per year after age 30. Strength declines at a rate of 10–13 percent every decade. The risk of sudden incapacitation also clearly increases with age, increasing sixfold between the age of 40 and 60 years of age. These physical effects are not experienced by all people to the same degree or at the same precise time. But they pose a significant problem to public safety agencies in their efforts tomaintain a fit and effective work force.

A public safety agency can respond to age-related declines in ability in one of two ways. It can establish an age-based mandatory retirement policy. This will reduce the risks to public safety, but it may result in some capable individuals being forcibly retired.

Alternatively, an agency can try to use performance and physical ability testing to try to screen out employees who might pose a threat to public safety. Unfortunately, there are numerous problems with trying to use tests as an alternative to age which makes this option untenable.

It is simply not possible to devise a test for all tasks carried out by a public safety employee. For example, no test could have possibly simulated the kinds of physical conditions firefighters in southern California have faced over the past 2 weeks. No test, no matter how comprehensive, can measure all of the skills and abilities a public safety employee must possess.

Moreover, there is no current test that can effectively screen for the risk of sudden incapacitation among symptomatic individuals. A mandatory retirement age, used in conjunction with screening for their risk factors, continues to be the most effective way of reducing the risk of sudden incapacitation by public safety officers.

Another, but lesser concern is that it is enormously expensive to administer performance and ability tests on a periodic basis to all public safety employees, consuming scarce resources that are needed to keep police on the street. In addition, testing often entails considerable litigation over the content of the tests. In Tennessee, for example, there were several years of litigation over the State wildlife officer's entrance exam which focused on the question of whether the fences that recruits had to scale should be 8 or 10 feet tall.

Testing can also have a very serious negative impact on other individuals and groups that historically have been discriminated against in employment. Tests have been proven to have an adverse impact on women and minorities. Women on average are less strong than men. Written tests may underpredict the on-the-job performance of minorities. To assure that such factors did not prevent women and minorities from serving in public safety positions, many agencies within-group normed the results of certain tests. Unfortunately, a provision of the Civil Rights Act of 1991 now prohibits the practice of norming. As a result, any increase in the use of physical and mental testing of public safety employees will jeopardize employment opportunities for women and minorities.

For these and other reasons, testing does not today represent a viable alternative to age-based mandatory retirement policies for public safety agencies. Under H.R. 2722, those agencies who wish to experiment with testing in lieu of retirement ages will be able to do so. But given the uncertainty about the effectiveness, effectsand implications of using tests as a substitute for age, the Congress must not force every public safety agency to implement them. This would be the case if we did not enact H.R. 2722.

I want to emphasize that this exemption is strongly supported by the affected employees themselves; if they did not support it, I would not have introduced H.R. 2722 and the Committee on Education and Labor would not have reported it without a single objection. Age-based retirement is not regarded by firefighters and police officers as unfair or as something which imposes any kind of hardship on them;

on the contrary, they believe it is essential. What is more, where agencies have set mandatory retirement ages, most of the employees retire well before attaining that age. Those who wish to continue to work full time have no problem finding other employment.

This is why this legislation is strongly supported by not only the National League of Cities and other public safety employers but by the Fraternal Order of Police, the International Association of Firefighters, and other representatives of public safety employees.

In making this exemption from ADEA permanent, our intent is not to forever close the door on this issue. Rather, our objective is to ensure that when Congress does reexamine this issue, it does so because there are compelling reasons to take another look—not because of some arbitrary, predetermined deadline.

I would strongly support reexamining this issue and consider amending or repealing the exemption in any of the following circumstances:

If there were any indications that significant numbers of public safety employees considered the exemption to be unfair and unwarranted;

If Federal public safety agencies such as the FBI and Federal firefighters eliminated their age-based retirement policies; or

If there was compelling evidence that there were reasonable, effective alternatives to the use of age which did not have an adverse impact on any class of individuals who are protected by Federal civil rights laws.

The 1964 Civil Rights Act, the ADEA, and other civil rights statutes have all been amended numerous times since their original enactment; no special temporary provision was needed to prod Congress to act in these instances. Permanent does not mean forever. What it means is that Congress will only return to this issue when there is strong support and compelling evidence for it to do so.

I urge my colleagues to join me in supporting H.R. 2722. It is imperative that all public safety employees be fit, effective and fully capable of fulfilling their duties. This legislation will assure that State and local police and fire agencies will be able to pursue that goal using the same age-based employment criteria which is now used by the FBI, the Secret Service, and other Federal public safety agencies.

□ 1230

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

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

Mr. Speaker, I rise in support of H.R. 2722, the Age Discrimination in Employment Amendments of 1993. This bill would permanently extend the public safety exemption under the Age Discrimination in Employment Act [ADEA]. Thus, the legislation would allow State and local police and fire departments to use maximum hiring ages and mandatory retirement ages without having to prove that age is a bona fide occupational qualification. Mandatory retirement policies are generally not permissible under the ADEA.

H.R. 2722 is very similar to H.R. 2554, which was introduced by Mr. MURPHY, and which I cosponsored along with many other Democrat and Republican Members of this body. The only difference is H.R. 2722 would not limit the public safety exemption to those police and fire departments that had age-based personnel policies in place as of March 3, 1983. Rather, it would allow all police and firefighting forces to have mandatory retirement policies as long as such policies are no more restrictive than 55 years of age. Fifty-five is the retirement age that is often applicable to Federal sector public safety personnel. This provision was added to H.R.2722 in the interest of having a uniform national policy applicable to all State and local governments.

As a supporter of this legislation, I must take care to reiterate that it is an exception to the usual rule that arbitrary age-based distinctions that limit the employment opportunities of older Americans will not be tolerated. When the ADEA was amended in 1986 to remove the upper limit of 70 years of age for coverage under the act, Congress was making a statement that no age should be an impediment to career advancement if an individual had the skills and expertise to succeed in his or her chosen profession. At that same time, however, Congress recognized the unique demands and responsibilities inherent to the field of public safety, including the needs for judicial consistency in terms of what the hiring and retirement standards should be and for a well-trained and physically and mentally capable work force. Thus, Congress created the exemption under the ADEA allowing police and fire departments to continue to use age-based hiring and retirement policies.

Perhaps unfortunately, the reasons why this legislation is necessary today are much the same as they were 7 years ago. There simply is not adequate guidance in place to enable police and fire departments to replace age-based personnel policies with physical and mental tests that will meet their work force needs while at the same time withstand judicial scrutiny. I might add that businesses throughout the country are very familiar with this bind. H.R. 2722 attempts to address this problem with respect to public safety by requiring the Equal Employment Opportunity Commission to conduct a study of available tests to assess law enforcement officers' and firefighters' performance of their jobs and to promulgate guidelines for the administration and use of physical and mental fitness tests to measure the ability and competency of law enforcement officers and firefighters.

H.R. 2722 must walk the delicate line between protecting the employment rights of older Americans and ensuring the public safety needs of all Americans. I believe H.R. 2722 does so fairly and I urge my colleagues to support the legislation.

Mr. OWENS. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Speaker, I thank my chairman, the gentleman from New York [Mr. OWENS], for yielding this time to me.

Originally I sponsored H.R. 2552 in which my good colleague and friend, the gentleman from Pennsylvania [Mr. GOODLING] joined me, together with 105 other sponsors.

Basically all this legislation intends to do is to carry out an extension of an amendment to the Age Discrimination Act which this Congress passed in 1986 by a vote of 394 to nothing.

The gentleman from New York [Mr. OWENS] the gentleman from Pennsylvania [Mr. GOODLING], myself, the gentleman from Wisconsin [Mr. GUNDERSON], all of the members of the Committee on Education and Labor have long been champions of our senior citizens. We believe that people who are in their fifties, sixties, yes, seventies, and even eighties, can perform many vital functions and tasks and should not be discriminated against just because of their advanced age; however, we just as firmly believe that police and firemen should not be subject to this Federal regulation or Federal law that says there shall be no discrimination.

All this legislation will do is make permanent the amendment we passed in 1986 that says the local government, the State government, the city, the county, may set up a retirement system for firemen and policemen.

□ 1240

Surely it must be within their discretion to determine whether a person 87 years of age can be fighting out of duel with armed criminals on the street or whether a 72-year-old can perform the same functions as a 42-year-old in fighting fires, as my chairman, the gentleman from New York [Mr. OWENS], mentioned is going on in the State of California today.

Mr. Speaker, this discretion to make mandatory their service when they are in the frontlines of our public safety must be left to the local government, not to the Congress of the United States. That is what we determined in 1986 when we granted a 7-year extension, and during that time our study showed, and the response from all local government, the response from the policemen and the firefighters who are on

frontlines are saying, "Let that determination be made by our local government." The experience in those 7 years has proven to us that this should be made permanent. There should be an exemption from the Age Discrimination Act to allow that public safety employees be retired at the discretion of their local government.

Mr. Speaker, I urge all of the Members to support this, keeping in mind we are champions of the senior citizens, but also we must be the champions of public safety.

Mr. Speaker, today I rise in support of H.R. 2722. This legislation is the successor to a bill I introduced earlier this year, H.R. 2554. I was pleased to serve as an original cosponsor of this legislation with the chairman of the Subcommittee on Select Education and Civil Rights, MAJOR OWENS. Representative OWENS deserves much of the credit for keeping this issue under active consideration. I applaud his interest in such a vital public safety issue.

As many of you may remember, this debate actually started years ago. In 1986, Congress debated and passed an amendment to the Age Discrimination in Employment Act of 1967 [ADEA] which bars most employers from setting mandatory retirement ages. During that debate, I offered an amendment which created a 7-year exemption for State and local governments allowing them to set mandatory retirement ages for firefighters and law enforcement officers. The vote was 394–0. This exemption is set to expire on December 31, 1993.

Throughout my years of public service, I have championed the rights of America's older citizens. I have always believed that there are many people of advanced age who have the capacity and the ability to continue working. Many of us in Congress watched with great admiration the work and dedication of the late Congressman Claude Pepper. The fact that mandatory retirement ages no longer exist in most professions, stands as a testament to the dogged determination of that remarkable man.

While there are numerous occupations that Senior Citizens can perform well past the age of 65, I submit that firefighting and police work are not among them. I firmly believe that we should not confuse what is advantageous for many public sector employees with what is safe for other public safety employees and reasonable for the community. No one can honestly say that the public would be adequately protected by 98-year-old police officers chasing drug dealers down the street or fighting in pitched battles with dangerous, well-armed criminals. Also, picture the fireman who is on the line of duty in this thirties, or forties, or fifties, who has to serve alongside a person who is in his eighties, who cannot be removed from the front lines.

Making this exemption permanent allows State and local governments to use their own discretion in establishing proper retirement ages for public safety officers. I do not believe Congress should impose its judgment in place of theirs. I believe that the right course is to allow the local councilman and State legislator to determine whether or not State troopers should be serving at 72 or 82 years of age. This was the original intent of the law, and this judgment is still correct.

I want to thank my 105 colleagues who joined with me as cosponsors of H.R. 2554. This commitment to the success of H.R. 2554 should not be enlisted to pass H.R. 2722.

Mr. OWENS. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I thank the gentleman from New York [Mr. OWENS] and our ranking member, the gentleman from Pennsylvania [Mr. GOODLING], and I associate myself with the comments of both gentlemen in commenting briefly on an amendment that I had offered in committee which I believe furthers the primary goal of this legislation—the protection of public safety.

The amendment, which was supported unanimously by the committee, provides for the development and voluntary use of two tools that will help our cities and towns maintain effective public safety forces:

First, it requires the Equal Employment Opportunity Commission to develop guidelines for performance tests which cities could use to measure the fitness of public safety officers;

Second, my amendment requires EEOC to develop standards for wellness programs for fire fighters and police that will give these valuable public servants opportunities to stay fit for duty.

I want to make it clear that my amendment does not mandate anything. It simply requires the Federal Government to provide our local governments with a range of cost effective, flexible, and fair ways to ensure the safety of their citizens.

Our goal is to assure the citizens of our communities, and our public safety forces themselves, that those in the front line of public safety, that they are fit to carry out their responsibilities effectively.

Again, Mr. Speaker, I thank the gentleman from New York [Mr. OWENS] for his support, and I urge my colleagues to support H.R. 2722.

Mr. BALLENGER. Mr. Speaker, I rise in support of H.R. 2722, the Age Discrimination in Employment Amendments of 1993, a measure which was favorably reported by the Committee on Education and Labor several weeks ago.

The bill before us today simply extends, on a permanent basis, the exemption under the Age Discrimination in Employment Act [ADEA] allowing police and fire departments to use maximum hiring and mandatory retirement ages without having to prove that age is a bona fide occupational qualification. The bill would not limit the exemption to those departments having such personnel policies in place on March 3, 1983, but would allow departments to develop such policies as long as they were no more restrictive than a 55 year mandatory retirement age. I am pleased to be able to support the legislation as it was reported by the committee as I did have some concerns about the bill as it was introduced. I point out, for my colleagues information, that a somewhat controversial provision with reference to the mandatory retirement of elected judges was deleted and I appreciate the committee's decision to hold that issue until a later day.

My decision to support the permanent extension of the public safety exemption under the Age Discrimination in Employment Act [ADEA] did not come without serious thought about the message it would send to the older members of our work force. As I am now among those ranks myself, I am concerned about the use of age criteria that arbitrarily limit the employment prospects of senior citizens. However, in this limited case of public safety, I was convinced by the vivid testimony of representatives of police and firefighting forces that an exception allowing mandatory retirement was necessary.

Many of the letters and visits I received on this issue emphasized the fact that there were not adequate tests available to measure the physical and mental capacities of older police officers and firefighters to respond to the types of emergency situations that their professions confront. Perhaps appropriately rigorous tests can be developed that will survive judicial scrutiny, and the legislation before us today takes steps toward that end. It requires the Equal Employment Opportunity Commission to conduct a study of available tests to assess law enforcement officers' and firefighters' performance of their jobs and to promulgate guidelines for the administration and use of physical and mental fitness tests to measure the ability and competency of law enforcement officers and firefighters.

I am certain that both the full committee and the Subcommittee on Select Education and Civil Rights will continue to monitor the practical effects of mandatory retirement in the public safety area, and I assuredly will support the chairman in these efforts.

Mr. OWENS. Mr. Speaker, I have no further requests for time, and, if the other side is prepared to yield back its time, I will yield back the balance of my time.

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

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from New York [Mr. OWENS] that the House suspend the rules and pass the bill, H.R. 2722, as amended.

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

The title of the bill was amended so as to read: "A bill to amend the Age Discrimination in Employment Act of 1967 with respect to State and local firefighters and law enforcement officers; and to amend the Age Discrimination in Employment Amendments of 1986 to prevent the repeal of the exemption for certain bona fide hiring and retirement plans applicable to State and local firefighters and law enforcement officers."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OWENS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on H.R. 2722, the bill just considered and passed.

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

There was no objection.

OLDER AMERICANS ACT TECHNICAL AMENDMENTS OF 1993

Mr. MARTINEZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3161) to make technical amendments necessitated by the enactment of the Older Americans Act Amendments of 1992, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3161

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 "Older Americans Act Technical Amendments of 1993".

SEC. 2. TECHNICAL AMENDMENTS TO THE OLDER AMERICANS ACT OF 1965.

The Older Americans Act of 1965 (42 U.S.C. 3001–3058ee) is amended—

(1) in section 102(3) by inserting "of the United States" after "Virgin Islands",

(2) in section 202(a)(18)—

(A) by striking ", and service providers,", and

(B) by inserting ", and service providers," after "on aging",

(3) in section 202(a)(27)(C) by striking "1994" and inserting "1995",

(4) in section 203(a)(3) by striking "Federal" the first place it appears,

(5) in section 206(g)—

(A) in paragraph (1) by striking "1994" and inserting "1995",

(B) in paragraph (2)(B) by striking "1993" and inserting "1994", and

(C) in paragraph (3) by striking "1994" and inserting "1995",

(6) in the first sentence of section 211 by striking "agencies," and inserting "agencies",

(7) in section 302 by striking paragraph (10),

(8) in paragraphs (1) and (2) of section 305(b) by striking "clause (1) of subsection (a)" each place it appears, and inserting "subsection (a)(1)",

(9) in section 307—

(A) in section 307(a)—

(i) in the last sentence of paragraph (8) by striking "knowledgable" and inserting "knowledgeable", and

(ii) in paragraph (24) by striking the semicolon at the end and inserting a period, and

(B) in subsection (b)(2) by striking "the requirement described in clause (3)(B) of subsection (a)" and inserting "such requirement",

(10) in section 310(a)(1) by striking "Disaster Relief and Emergency Assistance Act" and inserting "Robert T. Stafford Disaster Relief and Emergency Assistance Act",

(11) in section 314(a) by striking "(a) PROMOTION.—",

(12) in section 321(a)(15) by striking "clause (16) of section 307(a)" and inserting "chapter 3 of subtitle A of title VII and section 307(a)(16)",

(13) in section 361(a) by inserting "and Prevention" after "Control",

(14) in section 402(b) by striking "Alcohol, Drug Abuse, and Mental Health Administration" and inserting "Substance Abuse and Mental Health Services Administration",

(15) in section 411(e) by striking "431(b)" and inserting "section 431(b)",

(16) in the first sentence of section 421(a) by striking "purposes" the last place it appears and inserting "purpose",

(17) in section 429G(a)(2)(B)(v)(X) by striking "and" at the end,

(18) in subsections (a) and (b)(2) of section 429I by striking "black" and inserting "Black",

(19) in section 429J(a)(2)(D) by inserting "of 1974" after "Act", and

(20) in section 510 by striking "section 203 of such Act (29 U.S.C. 1603)" and inserting "sections 203 and 204(d)(5)(A) of such Act (29 U.S.C. 1603, 1604(d)(5)(A))", and

(21) in subsections (c) and (d) of section 614 by striking "Commission" and inserting "Assistant Secretary".

SEC. 3. ASSISTANT SECRETARY FOR AGING.

(a) AMENDMENTS TO THE OLDER AMERICANS ACT OF 1965.—The Older Americans Act of 1965 (42 U.S.C. 3001–3058ee) is amended—

(1) by amending section 102(2) to read as follows:

"(2) The term 'Assistant Secretary' means the Assistant Secretary for Aging.",

(2) in section 201—

(A) in subsection (a) by striking "a Commissioner on" and inserting "an Assistant Secretary for",

(B) in subsection (c)—

(i) in paragraph (2) by striking "an Associate Commissioner on" and inserting "a Director of the Office for", and

(ii) in paragraph (3) by striking "Associate Commissioner on" and inserting "Director of the Office for",

(C) in subsection (d)—

(i) by striking "an Associate Commissioner for Ombudsman Programs" and inserting "a Director of the Office of Long-Term Care Ombudsman Programs", and

(ii) by striking "Associate Commissioner" each place it appears and inserting "Director", and

(D) by striking "Commissioner" each place it appears and inserting "Assistant Secretary",

(3) in section 202—

(A) in the heading by striking "COMMISSIONER" and inserting "ASSISTANT SECRETARY",

(B) in subsection (a)(21)(A) by striking "Associate Commissioner for Ombudsman Programs" and inserting "Director of the Office of Long-Term Care Ombudsman Programs",

(C) in subsection (e)(1)(A)(iv) by striking "Associate Commissioner on" and inserting "Director of the Office for", and

(D) by striking "Commissioner" each place it appears and inserting "Assistant Secretary",

(4) in sections 212 and 429E—

(A) by striking "Associate Commissioner on" and inserting "Director of the Office for", and

(B) by striking "Commissioner" each place it appears and inserting "Assistant Secretary",

(5) in section 307—

(A) in subsections (d) and (e) by striking "Commissioner's" each place it appears and inserting "Assistant Secretary's", and

(B) by striking "Commissioner" each place it appears and inserting "Assistant Secretary",

(6) in section 311(a)(4)(B) by striking "Commissioner" and inserting "Assistant Secretary for Aging",

(7) in section 427—

(A) in subsection (a) by striking "Commissioner" and inserting "Assistant Secretary", and

(B) in subsection (b) by striking "Commissioner on Aging" each place is appears and inserting "Assistant Secretary",

(8) in subsections (a) and (b)(1) of section 503, and in section 505(a), by striking "Commissioner" each place it appears and inserting "Assistant Secretary for Aging",

(9) in section 712—

(A) in subsection (h)(4)(A) by striking "Associate Commissioner for Ombudsman Programs" and inserting "Director of the Office of Long-Term Care Ombudsman Programs", and

(B) by striking "Commissioner" each place it appears and inserting "Assistant Secretary",

(10) in section 751—

(A) in subsection (a) by striking "Associate Commissioner on" and inserting "Director of the Office for", and

(B) in subsections (a) and (b) by striking "Commissioner" each place it appears and inserting "Assistant Secretary",

(11) in the headings of sections 338B(b), 429A(g)(2), 429G(c)(2), and 763(b) by striking "COMMISSIONER" and inserting "ASSISTANT SECRETARY",

(12) in the heading of section 433 by striking "COMMISSIONER" and inserting "ASSISTANT SECRETARY", and

(13) by striking "Commissioner" each place it appears, and inserting "Assistant Secretary", in sections 203(a), 203A, 204(d), 205, 206(g), 207, 211, 214, 215(b)(2), 301, 304, 305, 306, 308, 309(a), 310, 312, 313(a), 314, 321, 331, 336, 337, 338(a), 338A, 338B, 341, 351, 361, 381, 402, 411, 412, 421, 422, 423, 424, 425(a), 428, 429, 429A, 429B, 429C, 429D, 429F, 429G, 429H, 429I, 429J, 431, 432, 433, 613, 614, 614A, 623, 624, 631, 632, 701, 703, 705(a)(7)(D), 713, 741(a)(4)(G), 763, and 764(a).

(b) AMENDMENTS TO OTHER LAW.—(1) Section 5315 of title 5 of the United States Code is amended in the item relating to Assistant Secretaries of Health and Human Services by striking "(5)" and inserting "(6)".

(2) Section 9(b) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 958(b)) is amended by striking "Commissioner on Aging" and inserting "Assistant Secretary for Aging".

(3) Sections 911(a)(8) and 921(a)(2) of the Alzheimer's Disease and Related Dementias Services Research Act of 1986 (42 U.S.C. 11211(a)(8), 11221(a)(2)) are amended by striking "Commissioner on Aging" and inserting "Assistant Secretary for Aging".

(4) Section 17(o)(3)(A) of the National School Lunch Act (42 U.S.C. 1766(o)(3)(A)) is amended by striking "Commissioner of Aging" and inserting "Assistant Secretary for Aging".

(c) REFERENCES.—Any reference to the Commissioner on Aging in any order, rule, guideline, contract, grant, suit, or proceeding that is pending, enforceable, or in effect on the date of the enactment of this Act shall be deemed to be a reference to the Assistant Secretary for Aging.

SEC. 4. MATTERS RELATING TO THE OLDER AMERICANS ACT AMENDMENTS OF 1992.

(a) TECHNICAL AMENDMENTS.—The Older Americans Act Amendments of 1992 (Public Law 102–375; 106 Stat. 1195–1310) is amended—

(1) in section 202(g) by striking "1993" each place it appears and inserting "1994",

(2) in section 211 by striking "1994" and inserting "1995", and

(3) in section 502(b)—

(A) in the matter preceding paragraph (1) by striking "The first sentence of section" and inserting "Section", and

(B) in paragraph (1) by inserting "in the first sentence" after "(1)".

(b) DELAYED APPLICABILITY OF CERTAIN AMENDMENTS.—The amendments made by—

(1) sections 303(a)(2), 303(a)(3), 304 (excluding paragraphs (1) and (2) of subsection (a)), 305, 306, 307, and 317, and

(2) title VII,

of the Older Americans Act Amendments of 1992 (Public Law 102–375; 106 Stat. 1221 et seq.) shall not apply with respect to fiscal year 1993.

SEC. 5. TECHNICAL AMENDMENTS TO THE NATIVE AMERICAN PROGRAMS ACT OF 1974.

The Native American Programs Act of 1974 (42 U.S.C. 2991–2992d) is amended—

(1) in section 802 by striking "Alaskan" and inserting "Alaska", and

(2) in the first sentence of section 803(a) by striking "nonreservation areas" and inserting "areas that are not Indian reservations or Alaska Native villages",

(3) in section 803A—

(A) in subsections (b), (c), and (d)(1) by striking "to which a grant is awarded under subsection (a)(1)" each place it appears,

(B) in subsection (d)(2) by striking "to which a grant is made under subsection (a)(1)", and

(C) in subsection (f)(1) by striking "for fiscal years 1988, 1989, and 1990 the aggregate amount $3,000,000 for all such fiscal years" and inserting "for each of the fiscal years 1992, 1993, and 1994, $1,000,000",

(4) in section 803B(c)—

(A) in paragraph (5) by striking "individuals who" and inserting "agencies described in section 803(a) that", and

(B) in paragraph (6) by striking "such individuals" and inserting "Native Americans,",

(5) in section 806(a)(2) by striking "Alaskan" and inserting "Alaska",

(6) in section 815—

(A) in paragraph (2) by striking "Alaskan" each place it appears and inserting "Alaska", and

(B) in paragraph (4) by adding a semicolon at the end, and

(6) in section 816—

(A) in subsections (a) and (b) by inserting a comma after "803A" each place it appears,

(B) in subsection (c) by striking "are" and inserting "is",

(C) in subsection (e) by striking "fiscal years 1992 and 1993" and inserting "fiscal year 1994", and

(D) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

SEC. 6. AMENDMENTS REGARDING THE WHITE HOUSE CONFERENCE ON AGING.

Title II of the Older Americans Amendments of 1987 (42 U.S.C. 3001 note) is amended—

(1) in section 202(a) by striking "December 31, 1994" and inserting "May 31, 1995,",

(2) in section 203(b)—

(A) in paragraph (1) by striking "subsection (a)(2)" and inserting "subsection (a)(3)", and

(B) in paragraph (3) by striking "subsection (a)(5)" and inserting "subsection (a)(6)",

(3) in section 204—

(A) in subsection (a)—

(i) in paragraph (1) by striking "90 days after the enactment of the Older Americans Act Amendments of 1992" and inserting "December 31, 1993", and

(ii) in paragraph (2)(B) by striking "60 days" and inserting "90 days",

(B) in subsection (b) by moving the left margin of paragraph (2) 2 ems to the right so as to align such margin with the left margin of paragraph (1), and

(C) in subsection (d) by striking "prescribed rate for GS–18 under section 5332" and inserting "equivalent of the maximum rate of pay payable under section 5376",

(4) in section 206(5) by inserting "of the United States" after "Virgin Islands", and

(5) in section 207—

(A) in subsection (a)(1) by striking "1994" and inserting "1996", and

(B) in subsection (b)—

(i) in paragraph (1)—

(I) by striking "June 30, 1995, or", and

(II) by striking ", whichever occurs earlier",

(ii) in paragraph (2)—

(I) by striking "June 30, 1995, or", and

(II) by striking ", whichever occurs earlier,", and

(iii) in paragraph (3) by striking "June 30, 1994" and inserting "December 31, 1995".

SEC. 7. AMENDMENTS TO THE COMMUNITY SERVICES BLOCK GRANT ACT.

(a) DISCRETIONARY AUTHORITY.—Section 681(a)(2) of the Community Services Block Grant Act (42 U.S.C. 9910(a)(2)) is amended—

(1) in subparagraph (D) by striking "(including" and all that follows through "facilities", and inserting ", including rental housing for low-income individuals",

(2) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and

(3) by inserting after subparagraph (D) the following:

"(E) technical assistance and training programs regarding the planning and development of rural community facilities (in selecting entities to carry out such programs, the Secretary shall give priority to organizations described in subparagraph (D));".

(b) ANNUAL REPORT.—Section 682 of the Community Services Block Grant Act (42 U.S.C. 9911) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "contract with" and inserting "awarding a grant or contract to",

(ii) by striking "this subtitle" and inserting "section 674", and

(iii) by striking subparagraphs (A) and (B) and inserting the following:

"(A) The uses of the Community Services Block Grant to the States that are related to the purposes of the subtitle.

"(B) The number of entities eligible for funds under this subtitle, the number of low-income persons served under this subtitle, and that amount of information concerning the demographics of the low-income populations served by such eligible entities as is determined to be feasible.

"(C) Any information in addition to that described in subparagraph (B) that the Secretary considers to be appropriate to carry out this subtitle, except that the Secretary may not require a State to provide such additional information until the expiration of the 1-year period beginning on the date on which the Secretary notifies such State that such additional information will be required to be provided.",

(B) by striking paragraphs (2) and (3), and

(C) by adding at the end the following:

"(2) In selecting an entity to prepare a report under this subsection, the Secretary shall give a preference to any nonprofit entity that has demonstrated the ability to secure the voluntary cooperation of grantees under this subtitle in designing and implementing national Community Services Block Grant information systems.", and

(2) in subsection (b) by striking "Not later" and all that follows through "prepared, the", and inserting "The".

(c) TECHNICAL AMENDMENTS.—The Community Services Block Grant Act (42 U.S.C. 9901–9912) is amended—

(1) in section 673(4) by inserting "of the United States" after "Virgin Islands",

(2) in section 674(a)—

(A) in paragraphs (1)(B) and (2)(A)(ii) by striking "681(c)" each place it appears and inserting "681(d)", and

(B) in paragraph (3) by inserting "of the United States" after "Virgin Islands",

(3) in section 680(a) by striking "681(c)" and inserting "681(d)", and

(4) in section 681A by striking "Statewide" and inserting "statewide".

SEC. 8. TECHNICAL AMENDMENTS WITH RESPECT TO CHILD CARE.

Section 8 of Public Law 102–586 is amended by striking "Child Care and Development Block Grant Act Amendments of 1992" each place it appears and inserting "Child Care and Development Block Grant Act of 1990".

SEC. 9. AMENDMENTS TO THE CHILD ABUSE PREVENTION AND TREATMENT ACT.

(a) IN GENERAL.—The first sentence of section 114(d) of the Child Abuse, Domestic Violence, Adoption and Family Services Act of 1992 (42 U.S.C. 5106a note; Public Law 102-295) is amended—

(1) by striking "on October 1, 1993, or", and

(2) by striking ", whichever occurs first".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on September 30, 1993.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MARTINEZ] will be recognized for 20 minutes and the gentleman from Wisconsin [Mr. GUNDERSON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MARTINEZ].

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

Mr. Speaker, after the enactment of the 1992 reauthorization of the Older Americans Act of 1965, we discovered a need to make technical and conforming changes. These amendments address matters of punctuation, grammar, and citation in the Older Americans Act, as well as the child care development block grant of 1990 and the community services block grant.

Through discussions with the Department of Health and Human Services and because of the delayed enactment of the Older Americans Act Amendments of 1992, we found that successful implementation of changes in the act warranted modest delays and extensions in the application of certain provisions.

In addition, at the request of the administration, the status of the Commissioner on Aging was changed to that of Assistant Secretary for Aging. Given that the fastest growing segment of the population in the United States is that over the age of 60, a long-term strategy will need to be in place to address aging issues. A key component of this process will be to elevate the status of aging services beginning with the Assistant Secretary for Aging.

H.R. 3161, as amended, makes technical changes to the Community Services Block Grant Act, the Child Abuse Prevention and Treatment Act, and the Native Americans Programs Act of 1974. These changes primarily affect the timing of duties and responsibilities under those acts in response to practical concerns raised in implementing provisions of law.

Finally, Mr. Speaker, I would like to thank the gentleman from Michigan [Mr. FORD], the chairman of the Committee on Education and Labor, for his support, and the ranking minority member of the Subcommittee on Human Resources, the gentlewoman from New York [Ms. MOLINARI] who is an original cosponsor of H.R. 3161.

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

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

Mr. Speaker, I would like to thank the gentleman from California [Mr. MARTINEZ], as well as my Republican colleague, the gentlewoman from New York [Ms. MOLINARI], for their efforts to bring H.R. 3161, the Older Americans Act Technical Amendments Act of 1993 to the floor today. All of us in Congress have a responsibility to ensure that our laws are correct and accurate, and can be properly implemented. With this technical amendments bill, my colleagues have lived up to this responsibility with the utmost professionalism.

Beyond the grammatical and clarifying amendments, this bill also contains some noncontroversial practical changes. One of those changes is an extension of time for convening the White House Conference on Aging. This extension is needed because of delays caused, in part, by the late passage of last year's reauthorization bill and the change in administrations. I am glad to see that such an important conference will not be lost because of the built-in procrastination of our Government.

Mr. Speaker, we support this bipartisan, noncontroversial technical amendments bill and urge its speedy passage. No committee, especially the Committee on Education and Labor, ought ever to have laws on the books that are not grammatically perfect.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MARTINEZ] that the House suspend the rules and pass the bill, H.R. 3161, as amended.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous materials, on H.R. 3161, the bill just passed.

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

There was no objection.

GUS YATRON FEDERAL POSTAL FACILITY

Miss COLLINS of Michigan. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3197) to redesignate the Post Office building located at 13th and Rockland Streets in Reading, PA, as the "Gus Yatron Federal Postal Facility," as amended.

The Clerk read as follows:

H.R. 3197

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

SECTION 1. REDESIGNATION.

The postal facility located at 2100 North 13th Street in Reading, Pennsylvania, and known as the Reading General Mail Facility, shall be known and designated as the "Gus Yatron Postal Facility".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the postal facility referred to in section 1 shall be deemed to be a reference to the Gus Yatron Postal Facility.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Michigan [Miss COLLINS] will be recognized for 20 minutes and the gentleman from New York [Mr. BOEHLERT] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Michigan [Miss COLLINS].

Miss COLLINS of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the passage of H.R. 3197, as amended, which would designate the postal facility located at 2100 North 13th Street in Reading, PA, as the "Gus Yatron Postal Facility."

Gus Yatron, a former Member of the House of Representatives, represented the Sixth District of Pennsylvania for 24 years. He spent his entire career in Congress on the Post Office and Civil Service Committee. Gus Yatron played an essential role in the decision to have the postal facility in Reading built. He was also a member of the Foreign Affairs Committee and was deeply involved in the United States-Mexico Interparliamentary Exchange Program.

Previous to serving in the House, Congressman Yatron served in the Pennsylvania State Senate, on the Reading School Board and worked as a small businessman and a professional boxer.

I am pleased to join Congressman HOLDEN and the citizens of Reading, PA, in their desire to rename the Reading General Mail Facility the "Gus Yatron Postal Facility," and I urge my colleagues to support the passage of H.R. 3197.

□ 1250

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

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

Mr. Speaker, I rise today in strong support of H.R. 3197 to designate the postal facility in Reading, PA, for my good friend and our former colleague, Gus Yatron.

Gus is a unique individual, who served in this body from 1968 until January of this year. He spoke and presented papers on human rights and democracy before the European Parliament many times during his congressional career and he also served as chairman of the annual United States-Mexican Interparliamentary Conference from 1980 until his retirement from the Congress.

I am advised that Congressman Yatron represented his congressional district, which included Reading, longer than any Representative to the Congress in history and I believe it would be more than fitting to honor this fine man and great legislator in this manner. I urge my colleagues to join me supporting H.R. 3197.

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

Miss COLLINS of Michigan. Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from Pennsylvania [Mr. HOLDEN].

Mr. HOLDEN. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise as a proud sponsor of H.R. 3197, which will rename the general mail facility in the city of Reading, PA, the "Gus Yatron Postal Facility," named in honor of my predecessor.

As my colleague, the gentleman from New York [Mr. BOEHLERT], and my colleague, the gentlewoman from Michigan [Miss COLLINS], have said, Congressman Yatron served in this body for 25 years with honor and with distinction. During his tenure in the U.S. Congress, Congressman Yatron served on the Foreign Affairs Committee, where he was recognized internationally for his work in human rights.

Congressman Yatron also served on the Committee on Post Office and Civil Service, where he served with distinction. Congressman Yatron has always been known as a friend of the postal workers of this country and of the Commonwealth of Pennsylvania and of the Sixth District of Pennsylvania. I think it is only fitting and proper for the U.S. Congress to take this opportunity to rename the facility in Reading, PA, after your former colleague and my predecessor, the Honorable Gus Yatron, who served with distinction and honor in this Chamber, who was loved and adored by all citizens of the Commonwealth of Pennsylvania and the Sixth District of Pennsylvania, and especially by the citizens of Reading.

I want to take this opportunity to wish my predecessor a long and healthy retirement with his family, his wife, Millie, and his children, Thiena and George. I will relay to my colleague when I have the opportunity and when I will speak to him later today, that I have talked with many Members of this body in the last couple of days as this bill was coming to the floor, and that everyone is thrilled and

honored to have this opportunity to rename this facility after the Honorable Gus Yatron.

Mr. BOEHLERT. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman from New York for yielding me this time.

I, too, want to rise in favor of this bill and point out that this is an honor well deserved for Gus Yatron. I do not imagine that there was a better-linked member of the Pennsylvania delegation during the time Gus Yatron served in this body. He was somebody Members enjoyed talking with because he was the kind of guy who always had a kind of unique view of issues, and he was somebody who did, as my colleague said before me, serve with distinction.

He was particularly known for the work he did in the foreign affairs area, and sometimes that was not the easiest thing to carry forward in his district back home, because it does not necessarily focus on foreign affairs efforts. Yet Gus always handled it very well. He explained why it was he was doing the kind of things he was doing to help lead the Nation and help develop some particular policies during a particularly turbulent time.

I was pleased to serve and share a county with Gus during the time he served here, and I think it is entirely appropriate that he should be honored by having a postal facility named in his honor, and I certainly endorse the legislation before us.

Mr. BOEHLERT. Mr. Speaker, I want to thank my colleague, the gentleman from Pennsylvania [Mr. WALKER] for those eloquent remarks.

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

Mr. GILMAN. Mr. Speaker, I am pleased to have supported H.R. 3197, a bill that pays tribute to an outstanding legislator, and dedicated public servant, the Honorable Gus Yatron, of Reading PA.

Congressman Yatron served over two decades as the Representative of Pennsylvania's Sixth Congressional District. Mr. Yatron was a dedicated and diligent legislator who worked tirelessly for the residents of his district and the entire Nation. Gus sat with me on the House Foreign Affairs Committee, Post Office and Civil Service Committee, and was chairman of the House Subcommittee on Human Rights and International Organizations.

After graduating from Kutztown State University in 1950, Gus helped manage the family ice cream manufacturing business. Early on, he attained local fame as the boxing champion in Reading. Gus began his political career in 1956 when he was elected to the Pennsylvania House of Representatives, and later served an 8-year term in the State senate.

For 24 years Gus played a vital role in the U.S. House of Representatives. His leadership, and expertise as the chairman of the Subcommittee on Human Rights and International Organizations was self-evident. He placed human rights concerns at the center of U.S. foreign policy, and put national interests above party politics.

Mr. Speaker, when Gus retired from the 102d Congress, we lost a valuable colleague and an outstanding legislator.

Accordingly, I urged all of my colleagues to support H.R. 3197, which designated a U.S. postal facility in Reading PA, as the "Gus Yatron Federal Postal Facility." This dedication will remain a lasting tribute to a truly great legislator.

Miss COLLINS of Michigan. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentlewoman from Michigan [Miss COLLINS] that the House suspend the rules and pass the bill, H.R. 3197, as amended.

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

The title of the bill was amended so as to read: "A bill to redesignate the postal facility located at 2100 North 13th Street in Reading, Pennsylvania, as the 'Gus Yatron Postal Facility'."

A motion to reconsider was laid on the table.

GEORGE W. YOUNG POST OFFICE

Miss COLLINS of Michigan. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3285) to redesignate the postal facility located at 1401 West Fort Street, Detroit, MI, as the "George W. Young Post Office."

The Clerk read as follows:

H.R. 3285

SECTION 1. REDESIGNATION.

The postal facility located at 1401 West Fort Street, in Detroit, Michigan, shall be known and designated as the "George W. Young Post Office."

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the postal facility referred to in section 1 shall be deemed to be a reference to the "George W. Young Post office."

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Michigan [Miss COLLINS] will be recognized for 20 minutes and the gentleman from New York [Mr. BOEHLERT] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Michigan [Miss COLLINS].

Miss COLLINS of Michigan. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I am delighted to sponsor and support the passage of H.R. 3285, which would designate the postal facility located at 1401 West Fort Street, Detroit, MI, as the "George W. Young Post Office."

George W. Young diligently served as a dedicated employee of the Detroit Postal Service for more than 20 years. He began his employment with the Postal Service as a window clerk, before moving up to become Assistant Personnel Director, then Assistant Postmaster for the Detroit Regional Post Office, in the 1960's and 1970's.

As a former postal employee, I had the pleasure of serving under Mr. Young when he was the Assistant Postmaster for Detroit. George Young had a special way of listening to postal employees. His meetings with and attentiveness to postal employees, while touring the Detroit facility, regularly helped to ease the stress on those employees. He was a great and caring man.

He graduated as Class President from Detroit Miller High School in 1938. He graduated Magna Cum Laude from the University of Detroit in 1961. In addition, he graduated from the U.S. Army's Officer Candidate School, achieving the school's second highest test score, just below his brother, the Honorable Coleman A. Young, the current mayor of the city of Detroit.

Mr. Young was drafted in World War II and served in the Army Signal Corps, achieving the bank of captain. His widow, Mrs. Elizabeth Robinson with whom he had one son, Ronald Young; still resides in my district in Detroit.

I am pleased to join the entire Young family, as well as the citizens of Detroit, in their desire to rename the postal facility at 1401 West Fort Street the "George W. Young Post office," and I urge my colleagues to support the passage of H.R. 3285.

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

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

Mr. Speaker, I want to take this opportunity to rise in support of H.R. 3285, legislation reported from the Committee on Post Office and Civil Service to designate a postal facility in Detroit, MI, as the "George W. Young Post Office."

Mr. Speaker, the late Mr. Young, a brother of renowned Detroit Mayor Coleman Young, was a postal worker in Detroit for over 20 years. He began as a window clerk and ended his career there as the assistant postmaster for all of Detroit. A graduate of the University of Detroit and a veteran of the U.S. Army's Signal Corps in World War II, Mr. Young was truly an example to all of us and I would hope that with the support of my colleagues we will be able to honor his memory and his life in this fashion.

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

Miss COLLINS of Michigan. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Michigan [Miss COLLINS] that the House suspend the rules and pass the bill, H.R. 3285.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Miss COLLINS of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the two bills just passed, H.R. 3197 and H.R. 3285.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Michigan?

There was no objection.

□ 1300

INTERMODAL SURFACE TRANSPORTATION TECHNICAL CORRECTIONS ACT

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3276) to make technical corrections to title 23, United States Code, the Federal Transit Act, and the Intermodal Surface Transportation Efficiency Act of 1991, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3276

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Intermodal Surface Transportation Technical Corrections Act".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Secretary defined.

TITLE I—TITLE 23 PROGRAMS

Sec. 101. Definitions.
Sec. 102. References to Dwight D. Eisenhower System of Interstate and Defense Highways.
Sec. 103. Federal-aid systems.
Sec. 104. Apportionment.
Sec. 105. Programs of projects.
Sec. 106. Advance acquisition of rights-of-way.
Sec. 107. Standards.
Sec. 108. Letting of contracts.
Sec. 109. Prevailing rate of wage.
Sec. 110. Construction.
Sec. 111. Advance construction.
Sec. 112. Maintenance.
Sec. 113. Certification acceptance.
Sec. 114. Availability of funds.
Sec. 115. Federal share.
Sec. 116. Payment to States for construction.
Sec. 117. Relocation of utility facilities.
Sec. 118. Advances to States.
Sec. 119. Emergency relief.
Sec. 120. Applicability of axle weight limitations.
Sec. 121. Toll roads.
Sec. 122. Rail-highway crossings.
Sec. 123. Surface transportation program.
Sec. 124. Metropolitan planning.
Sec. 125. Statewide planning.
Sec. 126. Control of junkyards.
Sec. 127. Nondiscrimination.
Sec. 128. Enforcement of requirements.
Sec. 129. Availability of rights-of-way.
Sec. 130. Highway bridge program.
Sec. 131. Great River Road.
Sec. 132. Hazard elimination program.
Sec. 133. Use of safety belts and motorcycle helmets.
Sec. 134. National maximum speed limit.
Sec. 135. Minimum allocation.
Sec. 136. National minimum drinking age.
Sec. 137. Revocation of drivers' licenses of individuals convicted of drug offenses.
Sec. 138. Reimbursement for segments of interstate system constructed without Federal assistance.
Sec. 139. Federal lands highway program.
Sec. 140. Bicycle transportation and pedestrian walkway.
Sec. 141. State highway department.
Sec. 142. Management systems.
Sec. 143. State planning and research.
Sec. 144. Appropriation for highway purposes of Federal lands.
Sec. 145. International highway transportation outreach program.
Sec. 146. Highway safety programs.
Sec. 147. National Highway Safety Advisory Committee.
Sec. 148. Alcohol-impaired driving counter measures.
Sec. 149. Public transit facilities.
Sec. 150. Use of recycled paving material.
Sec. 151. Work zone safety.
Sec. 152. High cost bridge project.
Sec. 153. Congestion relief project.
Sec. 154. High priority corridors on National Highway System.
Sec. 155. High priority corridor project.
Sec. 156. Rural access projects.
Sec. 157. Urban access and mobility projects.
Sec. 158. Innovative projects.
Sec. 159. Intermodal project.
Sec. 160. Miscellaneous Intermodal Surface Transportation Efficiency Act amendments.
Sec. 161. Disadvantaged business enterprise program.
Sec. 162. Amendments to Surface Transportation and Uniform Relocation Assistance Act of 1987.
Sec. 163. Freeway service patrols.
Sec. 164. Pan American Highway.

TITLE II—FEDERAL TRANSIT PROGRAMS

Sec. 201. Section 3 program amendments.
Sec. 202. Metropolitan planning.
Sec. 203. Formula grant program.
Sec. 204. Mass transit account block grants.
Sec. 205. Grants for research and training.
Sec. 206. General provisions.
Sec. 207. Period of availability and reapportionment of section 16 funds.
Sec. 208. Rural transit program.
Sec. 209. Nondiscrimination.
Sec. 210. Authorizations.
Sec. 211. Project management oversight.
Sec. 212. Planning and research program.
Sec. 213. Needs survey and transferability study.
Sec. 214. State responsibility for rail fixed guideway system.
Sec. 215. National Transit Institute.
Sec. 216. Increased Federal share.
Sec. 217. Performance reports on mass transit systems.
Sec. 218. Miscellaneous multiyear contracts.
Sec. 219. Cross reference to Federal Transit Act.

TITLE III—MISCELLANEOUS SURFACE TRANSPORTATION PROGRAMS

Sec. 301. Participation in international registration plan and international fuel tax agreement.
Sec. 302. Intelligent vehicle-highway systems.
Sec. 303. Title 49, United States Code, amendments.
Sec. 304. Surface Transportation Assistance Act of 1982 amendments.
Sec. 305. Commercial Motor Vehicle Safety Act of 1986 amendments.
Sec. 306. Cleveland Harbor, Ohio.
Sec. 307. Surface Transportation and Uniform Relocation Assistance Act of 1987 amendments.
Sec. 308. Intermodal Surface Transportation Efficiency Act Technical amendments.
Sec. 309. Improved bus safety.

SEC. 2. SECRETARY DEFINED.

As used in this Act, the term "Secretary" means the Secretary of Transportation.

TITLE I—TITLE 23 PROGRAMS

SEC. 101. DEFINITIONS.

Section 101(a) of title 23, United States Code, is amended by striking the 1st undesignated paragraph of such section that relates to public lands highways.

SEC. 102. REFERENCES TO DWIGHT D. EISENHOWER SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS.

(a) DECLARATION OF POLICY.—Section 2 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1914–1915) is amended—

(1) in the 3d undesignated paragraph by striking "National System of" and inserting "Dwight D. Eisenhower System of"; and

(2) in the 7th undesignated paragraph by striking "Interstate and Defense Highway System" and inserting "Dwight D. Eisenhower System of Interstate and Defense Highways".

(b) COMPLETION OF INTERSTATE SYSTEM.—Section 1001 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note; 105 Stat. 1915–1916) is amended in each of subsections (a) and (b) by striking "National".

(c) DEFINITION OF INTERSTATE SYSTEM IN TITLE 23.—The undesignated paragraph of section 101(a) of title 23, United States Code, relating to the Interstate System, is amended by striking "National".

(d) CONFORMING AMENDMENT TO VEHICLE WEIGHT LIMITATIONS.—Section 127(a) of title 23, United States Code, is amended by striking "National" each place it appears and inserting "Dwight D. Eisenhower".

(e) VEHICLE LENGTH RESTRICTION.—Section 411(j) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311(j)) is amended in each of paragraphs (1), (5)(D), and (6)(A) by striking "National" and inserting "Dwight D. Eisenhower".

(f) LONGER COMBINATION VEHICLE DEFINED.—Section 4007(f) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2153) is amended by striking "National" and inserting "Dwight D. Eisenhower".

(g) COMMEMORATION.—Section 6012 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 2180–2181) is amended—

(1) in the section heading by striking "NATIONAL"; and

(2) in subsection (a) by striking "National".

SEC. 103. FEDERAL-AID SYSTEMS.

(a) NATIONAL HIGHWAY SYSTEM.—Section 103(b)(4) of title 23, United States Code, is amended by inserting "and all corridors identified in section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991" after "by the States".

(b) INTERSTATE SYSTEM.—Section 103(e)(1) of such title is amended by striking the next to the last sentence.

(c) SUBSTITUTE PROJECTS.—Section 103(e)(4) of such title is amended—

(1) in the last sentence of subparagraph (B) by striking "projects on the Federal-aid secondary system" and inserting "surface transportation program projects";

(2) in subparagraph (G) by inserting "and" before "$240,000,000"; and

(3) in subparagraph (J)(i) by inserting a comma after "October 1, 1991".

SEC. 104. APPORTIONMENT.

(a) SET-ASIDE.—Section 104(a) of title 23, United States Code, is amended—

(1) by striking "for the Federal-aid systems" and inserting "for this chapter"; and

(2) by striking "upon the Federal-aid systems" and inserting "under this chapter".

(b) CROSS REFERENCE TO INTERSTATE CONSTRUCTION PERIOD OF AVAILABILITY.—Section 104(b)(5)(A) of such title is amended by striking "118(b)(2)" and inserting "118(b)(1)".

(c) TECHNICAL AMENDMENT.—Section 104(b)(5)(B) of such title is amended by striking the comma following "1984" each place it appears.

(d) REPEAL OF URBAN SYSTEM APPORTIONMENT.—Section 104(b)(6) of such title is repealed.

(e) PLANNING SET ASIDE.—Section 104(f)(3) of such title is amended by striking "(j)".

(f) TRANSFERABILITY AMONG SAFETY AND BRIDGE PROGRAMS.—Section 104(g) of such title is amended by striking "Not more than" and all that follows through "any other of such sections" the second place it appears and inserting the following: "Not more than 40 percent of the amount which is apportioned in any fiscal year to each State under section 144 or which is reserved for such fiscal year under section 133(d)(1) only for carrying out section 130 or 152 may be transferred from the apportionment under section 144 or one of the reservations under section 133(d)(1) to the apportionment or reservation under such other section if such a transfer is requested by the State highway department and is approved by the Secretary as being in the public interest. The Secretary may approve the transfer of 100 percent of the apportionment under section 144 or one of the reservations under section 133(d)(1) to the apportionment or reservation under such other section".

SEC. 105. PROGRAMS OF PROJECTS.

(a) REPEAL OF REQUIREMENT.—Section 105 of title 23, United States Code, and the item relating to such section in the analysis for chapter 1 of such title are each repealed.

(b) CONFORMING AMENDMENTS.—Section 106(a) of such title is amended—

(1) by striking ", as soon as practicable after program approval,"; and

(2) by striking "included in an approved program".

(c) PRIORITY FOR HIGH PRIORITY SEGMENTS OF CORRIDORS OF NATIONAL SIGNIFICANCE.—Section 1105(g)(7) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2036) is amended to read as follows:

"(7) PRIORITY FOR HIGH PRIORITY SEGMENTS OF CORRIDORS OF NATIONAL SIGNIFICANCE.—In selecting projects for inclusion in a plan or program under chapter 1 of title 23, United States Code, a State may give priority to high priority segments of corridors identified under subsection (c) of this section.".

SEC. 106. ADVANCE ACQUISITION OF RIGHTS-OF-WAY.

(a) INTERSTATE SYSTEM.—Section 107(a)(2) of title 23, United States Code, is amended by striking "subsection (c)" and inserting "subsection (a)".

(b) APPORTIONED FUNDS.—Section 108(a) of such title is amended—

(1) by striking "on any Federal-aid highway" and inserting "for any project eligible for assistance under this chapter";

(2) by striking "on such highway" and inserting "on such project"; and

(3) by striking "a road" and inserting "the project".

(c) RIGHT-OF-WAY REVOLVING FUND FUNDS.—Section 108(c) of such title is amended—

(1) in paragraph (2) by striking "highways and passenger transit facilities on any Federal-aid system" and inserting "any project eligible for assistance under this chapter"; and

(2) in paragraph (3) by striking "such project for the actual construction" and all that follows through "Secretary" the last place it appears and inserting "actual construction of such project on rights-of-way with respect to which funds are advanced under this subsection, whichever shall occur first, the right-of-way revolving fund shall be credited with an amount equal to the Federal share of the funds advanced, as provided in section 120 of this title, out of any funds apportioned under this chapter to the State in which such project is located and available for obligation for such projects and the State shall reimburse the Secretary".

(d) EARLY ACQUISITION.—Section 108(d)(2)(F) of such title is amended by striking "this Act" and inserting "this title".

SEC. 107. STANDARDS.

Section 109 of title 23, United States Code, is amended—

(1) in subsection (h) by striking "Federal-aid system" and inserting "Federal-aid highway"; and

(2) in subsection (q) by striking "under sections" and inserting "under section".

SEC. 108. LETTING OF CONTRACTS.

Section 112(f) of title 23, United States Code, relating to applicability to contracts for projects on the secondary system, is repealed.

SEC. 109. PREVAILING RATE OF WAGE.

Section 113 of title 23, United States Code, is amended—

(1) in subsection (a) by striking "highway projects on" and all that follows through "authorized under" and inserting "highway projects on Federal-aid highways authorized under";

(2) in subsection (a) by striking "upon the Federal-aid systems," and inserting "on Federal-aid highways,"; and

(3) in subsection (b) by striking "of the Federal-aid systems" and inserting "Federal-aid highway".

SEC. 110. CONSTRUCTION.

Section 114 of title 23, United States Code, is amended—

(1) in subsection (a) by striking "highways or portions of highways located on a Federal-aid system" and inserting "Federal-aid highway or portion thereof";

(2) in subsection (b)(1) by striking "highways or portions of highways located on a Federal-aid system" and inserting "a Federal-aid highway or portion thereof"; and

(3) in subsection (b)(3) by striking "highways or portions of highways located on a Federal-aid system" and inserting "any Federal-aid highway or portion thereof".

SEC. 111. ADVANCE CONSTRUCTION.

(a) TECHNICAL AMENDMENTS.—Section 115 of title 23, United States Code, is amended—

(1) in subsection (a)(2) by striking "PLANS, SPECIFICATIONS," and inserting "PROJECT APPROVAL"; and

(2) in subsection (c) by striking "134," and the second comma after "144".

(b) ADVANCED PLANNING.—Notwithstanding any other provision of law, upon application of a State, the Secretary shall pay to the State the Federal share of the cost of transportation planning carried out (including transportation planning carried out by metropolitan planning organizations), after September 30, 1991, and before December 18, 1991, in accordance with all procedures and all requirements applicable to such planning under title 23, United States Code. Such payment shall be made to the State from funds apportioned to the State under such title and available for carrying out transportation planning.

SEC. 112. MAINTENANCE.

Section 116 of title 23, United States Code, is amended—

(1) by inserting "highway" before "project" the first place it appears in each of subsections (a) and (c);

(2) in subsection (a) by striking "no longer constitutes a part of a Federal-aid system" and inserting "is no longer a Federal-aid highway"; and

(3) in subsection (b) by striking "the Federal-aid secondary system" and inserting "a Federal-aid highway".

SEC. 113. CERTIFICATION ACCEPTANCE.

Section 117 of title 23, United States Code, is amended—

(1) in subsection (e) by striking "2000(d)" and inserting "2000d"; and

(2) by striking subsection (f), relating to discharge of the Secretary's responsibilities with respect to the secondary system.

SEC. 114. AVAILABILITY OF FUNDS.

(a) PERIOD OF AVAILABILITY.—Section 118(b)(1) of title 23, United States Code, is amended—

(1) in the first sentence by striking "Interstate construction in a State" and inserting "completion of the Interstate System in a State"; and

(2) in the second sentence by inserting "for completion of the Interstate System" after "shall be allocated".

(b) SET ASIDE FOR INTERSTATE CONSTRUCTION PROJECTS.—Section 118(c)(1) of such title is amended by striking the period at the end of the first sentence and all that follows through the period at the end of the second sentence and inserting "for obligation at the discretion of the Secretary for projects to complete the Interstate System.".

(c) SET-ASIDE FOR 4R PROJECTS.—Section 118(c)(2) of such title is amended by inserting "of" after "$64,000,000 for each".

SEC. 115. FEDERAL SHARE.

(a) INTERSTATE SYSTEM PROJECTS.—Section 120(a) of title 23, United States Code, is amended by inserting before "including a project" the following: "including a project the cost for which is included in the 1991 interstate cost estimate and".

(b) SAFETY PROJECTS.—Section 120(c) of such title is amended by striking "for all the Federal-aid systems".

(c) EMERGENCY RELIEF.—The first sentence of section 120(e) of such title is amended—

(1) by striking "system, including" and inserting ", including a highway on";

(2) by striking "on a project on such system";

(3) by striking "and (c)" and inserting "and (b)"; and

(4) by striking "90 days" and inserting "180 days".

(d) PLANNING PROJECTS.—Section 120 of such title is amended by adding at the end the following new subsection:

"(j) PLANNING PROJECTS.—The Federal share payable on account of any project to be carried out with funds set aside under section 104(f) of this title shall be 80 percent of the costs thereof unless the Secretary determines that the interest of the Federal-aid highway program would best be served by decreasing or eliminating the non-Federal share of such costs.".

(e) CONFORMING AMENDMENT.—Section 208(2) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3338(2)) is amended by striking "section 120(a) of title 23, United States Code;".

SEC. 116. PAYMENT TO STATES FOR CONSTRUCTION.

Section 121 of title 23, United States Code, is amended—

(1) in subsection (b) by striking "After" and inserting "Except as otherwise provided in this title, after"; and

(2) in subsection (c) by striking "Federal-aid system" and inserting "Federal-aid highway".

SEC. 117. RELOCATION OF UTILITY FACILITIES.

Section 123(a) of title 23, United States Code, is amended—

(1) by striking "on any Federal-aid system" and inserting "eligible for assistance under this chapter"; and

(2) by striking the last sentence.

SEC. 118. ADVANCES TO STATES.

Section 124(a) of title 23, United States Code, is amended by striking "projects on any of the Federal-aid systems, including the Interstate System, he" and inserting "a project eligible for assistance under this title, the Secretary".

SEC. 119. EMERGENCY RELIEF.

(a) TECHNICAL AMENDMENT.—The first sentence of section 125(b) of title 23, United States Code, is amended by striking all preceding "Provided" and inserting the following: "The Secretary may expend funds from the emergency fund herein authorized for projects for repair or reconstruction on Federal-aid highways in accordance with the provisions of this chapter:".

(b) CONFORMING AMENDMENTS.—Section 125(b) of such title is further amended—

(1) by striking "authorized" in the second sentence and all that follows through the period at the end of such sentence and inserting "authorized on Federal-aid highways."; and

(2) by striking "the Disaster Relief and Emergency Assistance Act (Public Law 93-288)" and inserting "The Robert T. Stafford Disaster Relief and Emergency Assistance Act".

SEC. 120. APPLICABILITY OF AXLE WEIGHT LIMITATIONS.

(a) WISCONSIN STATE ROUTE 78 AND UNITED STATES ROUTE 51.—Section 127 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(f) OPERATION OF CERTAIN SPECIALIZED HAULING VEHICLES ON CERTAIN WISCONSIN HIGHWAYS.—If the 104-mile portion of Wisconsin State Route 78 and United States Route 51 between Interstate Route 94 near Portage, Wisconsin, and Wisconsin State Route 29 south of Wausau, Wisconsin, is designated as part of the Interstate System under section 139(a) of title 23, United States Code, the single axle, tandem axle, gross vehicle weight, and bridge formula limits set forth in subsection (a) shall not apply to the operation on such 104-mile portion of any vehicle which could legally operate on such 104-mile portion before the date of the enactment of this subsection.".

(b) VEHICLE WEIGHT LIMITATIONS IN THE STATE OF OHIO.—

(1) REVIEW.—The Secretary of Transportation shall review the Federal and State commercial motor vehicle weight limitations applicable to Federal-aid highways in the State of Ohio.

(2) WAIVER AUTHORITY.—If the Secretary of Transportation determines, on the basis of the review conducted under paragraph (1), that it is in the public interest, the Secretary may waive application of the vehicle weight limitations of section 127(a) of title 23, United States Code, and of the State certification requirements of sections 141(b) and 141(c) of such title, in whole or in part, to highways on the Dwight D. Eisenhower System of Interstate and Defense Highways in the State of Ohio for short wheel-base vehicles for such period as the Secretary determines may be necessary to permit a reasonable period of depreciation for short wheel-base vehicles purchased before October 1, 1991.

(3) MORATORIUM ON WITHHOLDING OF FUNDS.—Until the Secretary of Transportation makes a determination relating to the public interest under paragraph (2), the Secretary shall not withhold funds under section 127(a) or 141(c) of title 23, United States Code, from apportionment to the State of Ohio for failure to comply with such section with respect to short wheel-base vehicles.

(c) TECHNICAL AMENDMENTS.—Section 127 of title 23, United States Code, is amended—

(1) in subsection (a) by striking "118(b)(1)" and inserting "118(b)(2)"; and

(2) in subsection (d)(1)(E) by striking "July 5, 1991" and inserting "July 6, 1991".

SEC. 121. TOLL ROADS.

(a) USE OF REVENUES.—Section 129(a)(3) of title 23, United States Code, is amended by striking "all toll revenues received" and all that follows through the period at the end of the first sentence and inserting the following: "toll revenues received from operation of the toll facility will be used for financing and any other obligations in respect of the facility, for reserves, for reasonable return to investors financing the project (as determined by the State), and for the costs necessary for the proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation.".

(b) REFERENCE TO FEDERAL-AID HIGHWAYS.—The last sentence of section 129(a)(4) of such title is amended by striking "the Federal-aid system" and inserting "Federal-aid highways".

(c) LOANS.—Section 129(a)(7) of such title is amended—

(1) by inserting "or commit to loan" after "loan" the first place it appears;

(2) by striking "agency" each place it appears and inserting "entity";

(3) by inserting after "constructing" the first place it appears "or proposing to construct";

(4) by striking "all Federal environmental requirements have been complied with and permits obtained" and inserting "the National Environmental Policy Act of 1969 has been complied with";

(5) by inserting "to a private entity" after "Any such loan";

(6) by inserting after the fifth sentence the following new sentence: "Any such loan to a public entity shall bear interest at such rate as the State determines appropriate."; and

(7) by striking "the time the loan was obligated" and inserting "the date of the initial funding of the loan".

(d) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—Section 129 of such title is amended—

(1) in the first sentence of subsection (b) by striking "the route of which" and all that follows through the period at the end of such sentence and inserting "the route of which has been classified as a public road and has not been designated as a route on the Interstate System."; and

(2) in subsection (c)(4) by striking "and" preceding "repair".

(e) PILOT PROGRAM.—Section 129(d) of such title is amended—

(1) in each of paragraphs (1) and (3) by striking "7" and inserting "9";

(2) in paragraph (3) by striking "State of Pennsylvania" each place it appears and inserting "States of Pennsylvania and West Virginia"; and

(3) in paragraph (3) by inserting "the" before "State of Georgia".

(f) TREATMENT OF CENTENNIAL BRIDGE, ROCK ISLAND, ILLINOIS, AGREEMENT.—For purposes of section 129(a)(6) of title 23, United States Code, the agreement concerning the Centennial Bridge, Rock Island, Illinois, entered into under the Act entitled "An Act authorizing the city of Rock Island, Illinois, or its assigns, to construct, maintain, and operate a toll bridge across the Mississippi River at or near Rock Island, Illinois, and to a place at or near the city of Davenport, Iowa", approved March 18, 1938 (52 Stat. 110), shall be treated as if such agreement had been entered into under section 129 of title 23, United States Code, as in effect on December 17, 1991, and may be modified accordingly.

(g) TREATMENT OF I-95 AND PENNSYLVANIA TURNPIKE.—For purposes of section 129 of title 23, United States Code, the project for construction of an interchange between Interstate Route 95 and the Pennsylvania Turnpike shall be treated as a reconstruction project described in section 129(a)(1)(B) of such title.

SEC. 122. RAIL-HIGHWAY CROSSINGS.

Section 130 of title 23, United States Code, is amended—

(1) in subsection (a) by striking "Except as provided in subsection (d) of" and inserting "Subject to";

(2) in subsection (a) by striking "entire" each place it appears;

(3) in subsection (a) by striking "except as provided in subsection (d) of" and inserting "subject to";

(4) in subsection (e) by striking "authorized for and";

(5) in subsection (e) by striking the last sentence;

(6) by striking subsection (f) and redesignating subsections (g) and (h) as subsections (f) and (g), respectively; and

(7) in subsection (f) as so redesignated by striking "railroad highway" and inserting "railroad-highway".

SEC. 123. SURFACE TRANSPORTATION PROGRAM.

(a) STATE CERTIFICATION.—Section 133 of title 23, United States Code, is amended—

(1) in subsection (c) by striking "subsections (b) (3) and (4)" and inserting "subsections (b)(3) and (b)(4)";

(2) in subsection (d)(3)(B) by striking "tobe" and inserting "to be"; and

(3) in subsection (e)(2) by inserting after "each State" the following: "or the designated transportation authority of the State".

(b) TECHNICAL AMENDMENT.—Section 1007(b)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1930) is amended—

(1) by striking "104(b)(3)" and inserting "104(b)"; and

(2) by striking "to read as follows" and inserting "by inserting after paragraph (2) the following new paragraph".

SEC. 124. METROPOLITAN PLANNING.

(a) TECHNICAL AMENDMENTS.—Section 134 of title 23, United States Code, is amended—

(1) in each of subsections (b)(2), (b)(3), and (h)(4) by striking "the date of the enactment of this section" and inserting "December 18, 1991";

(2) in each of subsections (b)(3)(B) and (g)(2)(B) by striking "long-range" and inserting "long range";

(3) in subsection (f)(11) by inserting "passengers and" before "freight";

(4) in subsection (g)(5) by redesignating subparagraphs (i) and (ii) as subparagraphs (A) and (B); and

(5) in subsection (k) by striking "the Federal-Aid Highway Act of 1991" and inserting "this title".

(b) FACTORS TO BE CONSIDERED.—Section 134(f) of such title is amended by adding at the end the following new paragraph:

"(16) Recreational travel and tourism.".

(c) TRANSFER OF FUNDS.—Section 134(k) of such title is amended by striking the last sentence.

(d) CONFORMING CHAPTER ANALYSIS AMENDMENT.—The analysis for chapter 1 of such title is amended by striking

"134. Transportation planning in certain urban areas."

and inserting

"134. Metropolitan planning.".

SEC. 125. STATEWIDE PLANNING.

Section 135 of title 23, United States Code, is amended—

(1) in subsection (c) by striking paragraph (1) and inserting the following new paragraph:

"(1) The transportation needs identified through use of the management systems required by section 303 of this title.";

(2) in subsection (c)(5) by inserting after "nonmetropolitan areas" the following: ", including the identification of a rural priority local road and bridge system,";

(3) in subsection (c) by striking paragraph (15) and redesignating paragraphs (16) through (20) as paragraphs (15) through (19), respectively;

(4) in subsection (c)(18), as so redesignated, by striking "commercial motor vehicles" and inserting "passengers and freight";

(5) in subsection (d)(3) by striking "concerns" and inserting "transportation needs";

(6) in each of subsections (e) and (f)(1) by inserting "Indian tribal governments," after "private providers of transportation,"; and

(7) in subsection (h)—

(A) by striking "United States Code," and inserting "other Federal laws, and";

(B) by striking "this Act" and inserting "this title"; and

(C) by striking "or section 8 of such Act," and inserting "of this title, or section 8 of the Federal Transit Act,".

SEC. 126. CONTROL OF JUNKYARDS.

(a) STRICTER STATE STANDARDS.—Section 136(l) of title 23, United States Code, is amended by striking "the Federal-aid highway systems" and inserting "Federal-aid highways".

(b) PRIMARY SYSTEM DEFINED.—Section 136 of such title is amended by adding at the end the following new subsection:

"(n) PRIMARY SYSTEM DEFINED.—For purposes of this section, the term 'primary system' means the Federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system but which is on the National Highway System.".

SEC. 127. NONDISCRIMINATION.

(a) STATE ASSURANCES.—Section 140(a) of title 23, United States Code, is amended by striking "any of the Federal-aid systems" and inserting "Federal-aid highways".

(b) TRAINING.—Section 140(b) of such title is amended—

(1) by inserting "operator of a Youth Corps center," after "nonprofit),";

(2) by striking "for the surface transportation program"; and

(3) by striking "the bridge program".

SEC. 128. ENFORCEMENT OF REQUIREMENTS.

Section 141(b) of title 23, United States Code, is amended by striking "the Federal-aid primary system" and all that follows through "including" and inserting "Federal-aid highways, including highways on".

SEC. 129. AVAILABILITY OF RIGHTS-OF-WAY.

Section 142 of title 23, United States Code, is amended—

(1) in subsection (a)(2) by striking "the surface" and inserting "surface"; and

(2) in subsection (f) by striking "exits" and inserting "exists".

SEC. 130. HIGHWAY BRIDGE PROGRAM.

(a) SET ASIDES.—Section 144(g) of title 23, United States Code, is amended—

(1) in paragraph (1) by striking "103" and inserting "1003";

(2) in paragraph (3) by striking "OFF-SYSTEM BRIDGES" and inserting "BRIDGES NOT ON FEDERAL-AID HIGHWAYS";

(3) in paragraph (3) by striking ", other than those on a Federal-aid system" and inserting "that are functionally classified as local or rural minor collectors"; and

(4) in paragraph (3) by striking "bridges not on a Federal-aid system" and inserting "such bridges".

(b) CROSS REFERENCE.—Section 144(i) of such title is amended by striking "307(e)" and inserting "307(h)".

(c) CONTINUATION OF EXISTING BRIDGE APPORTIONMENT CRITERIA.—The criteria for apportionment of funds used by the Department of Transportation under section 144 of title 23, United States Code, as in effect on September 30, 1991, shall remain in effect until September 30, 1997, or until changed by law, whichever occurs first.

SEC. 131. GREAT RIVER ROAD.

Section 148(a)(1) of title 23, United States Code, is amended by striking "centers of the State" and inserting "centers of the States".

SEC. 132. HAZARD ELIMINATION PROGRAM.

Section 152 of title 23, United States Code, is amended—

(1) in subsection (c) by striking "authorized" and inserting "available"; and

(2) by striking subsections (d) and (e) and redesignating subsections (f), (g), and (h) as subsections (d), (e), and (f), respectively.

SEC. 133. USE OF SAFETY BELTS AND MOTORCYCLE HELMETS.

(a) REFERENCE TO DATE OF ENACTMENT.—Section 153 of title 23, United States Code, is amended—

(1) in subsection (c) by striking "the date of the enactment of this section" and inserting "December 31, 1991"; and

(2) in subsection (i)(3) by striking "the date of the enactment of this section" and inserting "December 31, 1991,".

(b) ELIGIBILITY FOR GRANTS.—Section 153(f)(2) of such title is amended by striking "at all times" each place it appears.

(c) PENALTIES.—Section 153(h) of such title is amended—

(1) in paragraph (1) by striking "at any time in" and inserting "by the last day of";

(2) in paragraph (2) by inserting "by the last day of fiscal year 1995 or" after "If,";

(3) in paragraph (2) by striking "1994," and inserting "1995,"; and

(4) in paragraph (4)(A) by striking "under section 402" and inserting "by this subsection".

(d) DEFINITIONS.—Section 153(i) of such title is amended by adding at the end the following new paragraph:

"(5) STATE.—The term 'State' has the meaning such term has under chapter 4 of this title.".

SEC. 134. NATIONAL MAXIMUM SPEED LIMIT.

(a) EXISTING PROGRAM.—Section 154(a)(1) of title 23, United States Code, is amended by striking "on the Interstate System" and all that follows through "or more" and inserting "described in clause (2) or (3) of this subsection".

(b) NEW PROGRAM.—Section 1029 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1968–1970) is amended—

(1) in subsection (c)(1)(A) by inserting "of a State" after "apportionments";

(2) in subsection (c)(1)(A) by striking "if a State" and inserting "to the apportionment of the State under section 402 of such title if the State";

(3) in subsection (c) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(4) by inserting after paragraph (1) of subsection (c) the following new paragraph:

"(2) LIMITATION ON USE OF FUNDS.—

"(A) GENERAL RULE.—A State must obligate at least 50 percent of its funds transferred pursuant to this subsection for a fiscal year for speed limit enforcement and public information and education.

"(B) WAIVER.—Upon request of a State, the Secretary may waive the requirement of subparagraph (A) for any fiscal year if in the preceding fiscal year the State was in compliance with the speed limit requirements established pursuant to paragraph (1).".

SEC. 135. MINIMUM ALLOCATION.

Section 157 of title 23, United States Code, is amended—

(1) in subsection (a)(2) by striking "118(b)(2)" and inserting "118(b)(1)";

(2) in subsection (a)(3)(A) by striking "year 1989" and inserting "years 1989"; and

(3) by striking subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 136. NATIONAL MINIMUM DRINKING AGE.

Section 158 of title 23, United States Code, is amended—

(1) in subsection (a) by striking "104(b)(5), and 104(b)(6)" each place it appears and inserting "104(b)(3), and 104(b)(5)";

(2) in subsection (b)(1)(A)(iii) by striking "104(b)(6)" and inserting "104(b)(3)";

(3) in subsection (b)(3)(B) by striking "104(b)(5)(B), or 104(b)(6)" and inserting "104(b)(3), or 104(b)(5)(B)"; and

(4) in each of subsections (b)(3) and (b)(4) by striking "118(b)" and inserting "118".

SEC. 137. REVOCATION OF DRIVERS' LICENSES OF INDIVIDUALS CONVICTED OF DRUG OFFENSES.

Section 159 of title 23, United States Code, is amended in each of subsections (b)(3) and (b)(4) by striking "118(b)" and inserting "118".

SEC. 138. REIMBURSEMENT FOR SEGMENTS OF INTERSTATE SYSTEM CONSTRUCTED WITHOUT FEDERAL ASSISTANCE.

Section 160 of title 23, United States Code, is amended—

(1) in subsection (b) by striking "The amount" and inserting "Subject to subsection (g), the amount"; and

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

"(g) PUERTO RICO.—Notwithstanding any other provision of this section, Puerto Rico shall receive in a fiscal year ½ of 1 percent of the amounts appropriated pursuant to subsection (f) for such fiscal year. No State (including the District of Columbia) which has a reimbursement percentage in the table contained in subsection (c) of 0.50 shall have its reimbursement amount in fiscal years 1996 and 1997 reduced as a result of the enactment of the preceding sentence.".

SEC. 139. FEDERAL LANDS HIGHWAY PROGRAM.

(a) PUBLIC LANDS HIGHWAYS ALLOCATION.—Section 202(b) of title 23, United States Code, is amended by striking "66 percent of the remainder" and inserting "the remaining 66 percent".

(b) AVAILABILITY OF FUNDS.—Section 203 of such title is amended by striking the comma preceding "forest development" each place it appears.

(c) PURPOSES FOR WHICH FUNDS MAY BE USED.—Section 204(b) of such title is amended—

(1) by striking "construction and improvement" each place it appears and inserting "planning, research, engineering, and construction"; and

(2) by striking "construction or improvement" and inserting "planning, research, engineering, or construction".

(d) APPROVAL OF INDIAN RESERVATION ROAD PROJECTS.—Section 204(c) of such title is amended by inserting "of" after "15 percent".

(e) OBLIGATION OF FUNDS.—Section 204 of such title is amended by adding at the end the following new subsection:

"(k) OBLIGATION OF FUNDS.—Notwithstanding any other provision of law, funds available for Federal lands highway programs shall be treated as obligated if—

"(1) the Secretary authorizes engineering and related work for a particular project; or

"(2) the Secretary approves plans, specifications, and estimates for procurement of construction under section 106 or 117 of this title.".

(f) REFERENCE TO PARK ROADS.—Section 1003(a)(6)(C) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1919) is amended—

(1) by striking "HIGHWAYS" in the subparagraph heading and inserting "ROADS"; and

(2) by striking "highways" the place it appears preceding "$69,000,000" and inserting "roads".

(g) TECHNICAL AMENDMENT.—Section 1032(b)(2) (A) of such Act (105 Stat. 1974) is amended by striking "improvements" and inserting "improvement".

SEC. 140. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAY.

Section 217 of title 23, United States Code, is amended—

(1) in subsection (b) by inserting "pedestrian walkways and" before "bicycle transportation facilities";

(2) in subsection (f) by striking "and the Federal share" and all that follows through "80 percent";

(3) by redesignating subsection (j) as subsection (k); and

(4) by inserting after subsection (i) the following new subsection:

"(j) INCLUSION OF PEDESTRIAN WALKWAYS AND BICYCLE TRANSPORTATION FACILITIES IN PLANNING.—

"(1) GENERAL RULE.—The Secretary may not approve under this chapter a highway project for new construction or reconstruction within the boundaries of a State along which a pedestrian walkway or bicycle transportation facility is required to be included under the State's transportation improvement plan developed under section 135 unless such pedestrian walkway or bicycle transportation facility is part of such highway project.

"(2) EXCEPTION.—The Secretary does not have to approve a project for construction of a pedestrian walkway or bicycle transportation facility under paragraph (1)—

"(A) if the Secretary determines that such construction is not feasible or that use of the walkway or facility would pose a safety risk to pedestrians or bicyclists, as the case may be; or

"(B) the Secretary determines that there will be no substantial transportation or recreation benefit resulting from the project.".

SEC. 141. STATE HIGHWAY DEPARTMENT.

Section 302(b) of title 23, United States Code, is amended by striking "on the Federal-aid secondary system, financed with secondary funds," and inserting "not on the National Highway System".

SEC. 142. MANAGEMENT SYSTEMS.

Section 303 of title 23, United States Code, is amended in each of subsections (a) and (b) by striking "1 year after the date of the enactment of this section" and inserting "December 18, 1992".

SEC. 143. STATE PLANNING AND RESEARCH.

Section 307 of title 23, United States Code, is amended—

(1) in subsection (c)(1) by striking "104" and inserting "104(b)";

(2) in subsection (e)(3)(C) by striking "climactic" and inserting "climatic";

(3) in subsection (e)(13) by striking the quotation marks preceding "$35,000,000";

(4) in subsection (f)(2) by striking "section" the first place it appears and inserting "paragraph";

(5) in the heading to subsection (f)(3) by inserting "EARTHQUAKE" after "NATIONAL"; and

(6) in subsection (f)(3) by inserting "Earthquake" after "National".

SEC. 144. APPROPRIATION FOR HIGHWAY PURPOSES OF FEDERAL LANDS.

Section 317(d) of title 23, United States Code, is amended by striking "system" and inserting "highway".

SEC. 145. INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.

Section 325(a)(5) of title 23, United States Code, is amended by striking "the date of the enactment of this section" and inserting "December 18, 1991".

SEC. 146. HIGHWAY SAFETY PROGRAMS.

(a) ESTABLISHMENT OF PROGRAMS.—Section 402(a) of title 23, United States Code, is amended—

(1) by striking "section 4007" and inserting "section 4004"; and

(2) by striking "performance criteria" and inserting "performance goals".

(b) ADMINISTRATIVE REQUIREMENTS.—Section 402(b) of such title is amended—

(1) in paragraph (1) by striking the period at the end of each of subparagraphs (A) and (B) and inserting a semicolon;

(2) in paragraph (1)(C) by inserting ", including Indian tribal governments," after "subdivisions of such State";

(3) in paragraph (1)(C) by striking the period at the end and inserting "; and";

(4) by striking paragraph (1)(E); and

(5) by striking paragraphs (3) and (4) and redesignating paragraph (5) as paragraph (3).

(c) APPORTIONMENT OF FUNDS.—Section 402(c) of such title is amended by striking the 8th sentence.

(d) APPLICATION IN INDIAN COUNTRY.—Section 402(i) of such title is amended to read as follows:

"(i) APPLICATION IN INDIAN COUNTRY.—

"(1) IN GENERAL.—For the purpose of the application of this section in Indian country, the terms 'State' and 'Governor of a State' include the Secretary of the Interior and the term 'political subdivision of a State' includes an Indian tribe. Notwithstanding the provisions of subsection (b)(1)(C), 95 percent of the funds transferred to the Secretary of the Interior under this section shall be expended by Indian tribes to carry out highway safety programs within their jurisdictions. The provisions of subsection (b)(1)(D) shall be applicable to Indian tribes, except to those tribes with respect to which the Secretary determines that application of such provisions would not be practicable.

"(2) INDIAN COUNTRY DEFINED.—For the purposes of this subsection, the term 'Indian country' means—

"(A) all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

"(B) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof and whether within or without the limits of a State; and

"(C) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.".

(e) RULEMAKING PROCESS.—Section 402(j) of such title is amended to read as follows:

"(j) RULEMAKING PROCESS.—The Secretary may from time to time conduct a rulemaking process to determine those highway safety programs that are most effective in reducing traffic accidents, injuries, and deaths. Any rule under this subsection shall be promulgated taking into account consideration of the views of the States having a major role in establishing such programs. When a rule promulgated in accordance with this subsection takes effect, only those programs established by such rule as most effective in reducing traffic accidents, injuries, and deaths shall be eligible to receive Federal financial assistance under this section.".

(f) RECORDKEEPING SYSTEM.—Section 402 of such title is amended by striking subsection (k).

SEC. 147. NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE.

Section 404(d) of title 23, United States Code, is amended by striking "Commerce" and inserting "Transportation".

SEC. 148. ALCOHOL-IMPAIRED DRIVING COUNTER MEASURES.

Section 410(d)(1)(E) of title 23, United States Code, is amended by striking "the date of enactment of this section" and inserting "December 18, 1991".

SEC. 149. PUBLIC TRANSIT FACILITIES.

Section 1023(h) of the Intermodal Surface Transportation Efficiency Act of 1991 is amended by striking "this Act" each place it appears and inserting "the Department of Transportation and Related Agencies Appropriations Act, 1993".

SEC. 150. USE OF RECYCLED PAVING MATERIAL.

Section 1038(e) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 109 note) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end the following:

"(3) the term 'State' has the meaning such term has under section 101 of title 23, United States Code.".

SEC. 151. WORK ZONE SAFETY.

Section 1051 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 401 note) is amended—

(1) by inserting "technologies and services," after "appurtenances,";

(2) by inserting "training," after "traffic control plans,"; and

(3) by adding at the end the following new sentence: "The Secretary shall annually review, and provide to State and local governments, information and recommendations concerning safety practices that can enhance safety at highway construction sites, including information relating to new safety technologies, services, traffic control plans, training, and work zone-related bidding practices.".

SEC. 152. HIGH COST BRIDGE PROJECT.

The table contained in section 1103(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027–2028) is amended in item number 5, relating to Gloucester Point, Virginia, by inserting after "York River" the following: "and for repair; strengthening, and rehabilitation of the existing bridge".

SEC. 153. CONGESTION RELIEF PROJECT.

The table contained in section 1104(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2029–2031) is amended—

(1) in item number 10, relating to San Diego, California, by striking "1 block of Cut and Cover Tunnel on Rt. 15" and inserting "bridge decking on Route 15"; and

(2) in item number 43, relating to West Virginia, by striking "Coal Fields" and inserting "Coalfields".

SEC. 154. HIGH PRIORITY CORRIDORS ON NATIONAL HIGHWAY SYSTEM.

(a) EAST-WEST TRANSAMERICA CORRIDOR.—Section 1105(c)(3) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended by inserting before the period at the end the following: ", including (A) a Kentucky corridor centered on the cities of Paducah, Benton, Hopkinsville, Bowling Green, Columbia, Somerset, London, Hazard, Jenkins, and Pikeville, Kentucky, to Williamson, West Virginia, and (B) a West Virginia corridor from Williamson to the vicinity of Welch, West Virginia, sharing a common corridor with the Interstate Route I–73/74 corridor (referred to in item 12 of the table contained in subsection (f)), and from the vicinity of Welch to Beckley, West Virginia, as part of the Coalfields Expressway described in section 1069(v)".

(b) INDIANAPOLIS TO HOUSTON CORRIDOR.—Section 1105(c)(18) of such Act (105 Stat. 2032) is amended by inserting before the period at the end the following: ", including a Kentucky corridor centered on the cities of Henderson, Sturgis, Smithland, Paducah, Bardwell, and Hickman, Kentucky".

SEC. 155. HIGH PRIORITY CORRIDOR PROJECT.

The table contained in section 1105(f) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2033–2035) is amended in item number 26, relating to Indiana, Kentucky, Tennessee, by striking "Newberry" and inserting "Evansville".

SEC. 156. RURAL ACCESS PROJECTS.

The table contained in section 1106(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2037–2042) is amended—

(1) in item number 34, relating to Illinois, by striking "Resurfacing" and all that follows through "Omaha" and inserting "Bel-Air Road improvement from south of Carmi to State Route 141 in southeastern White County";

(2) in item number 52, relating to Bedford Springs, Pennsylvania, by striking "and Huntington" and inserting "Cambria, Franklin, and Huntingdon";

(3) in item number 61, relating to Lubbock, Texas, by striking "with" and inserting "with Interstate 10 through";

(4) in item number 75, relating to Pennsylvania, by striking "Widen" and all that follows through "lanes" and inserting "Road improvements on a 14-mile segment of U.S. Route 15 in Lycoming County, Pennsylvania";

(5) in item number 92, relating to Ohio, by striking "Minerva, Ohio" and insert "Lisbon, Ohio";

(6) in item number 93, relating to New Mexico, by striking "Raton-Clayton Rd., Clayton, New Mexico" and inserting "U.S. Rt. 64/87 from Raton, New Mexico, through Clayton to the Texas-New Mexico State line"; and

(7) in item number 111, relating to Parker County, Texas (SH199)—

(A) by striking "Parker County" and inserting "Parker and Tarrant Counties"; and

(B) by striking "to four-" and inserting "in Tarrant County, to freeway standards and in Parker County to a 4-".

SEC. 157. URBAN ACCESS AND MOBILITY PROJECTS.

The table contained in section 1106(b)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2043–2047) is amended—

(1) in item number 13, relating to Joliet, Illinois, by striking "and construction and interchange at Houbolt Road and I–80"; and

(2) in item number 36, relating to Compton, California, by striking "For a grade" and all that follows through "Corridor" and inserting "For grade separations and other improvements in the city of Compton, California".

SEC. 158. INNOVATIVE PROJECTS.

The table contained in section 1107(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2048–2059) is amended—

(1) in item number 29, relating to Blacksburg, Virginia, by inserting "methods of facilitating public and private participation in" after "demonstrate";

(2) in item number 35, relating to Alabama, by striking "to bypass" and all that follows through "I–85" and inserting "beginning on U.S. Route 80 west of Montgomery, Alabama, and connecting to I–65 south of Montgomery and I–85 east of Montgomery";

(3) in item number 52, relating to Pennsylvania, by striking "off Interstate" and all that follows through "Mountaintop," and inserting "and highway improvements off Interstate 81 between Pittston and Hazleton,";

(4) in item number 61, relating to Mojave, California, by striking "Mojave" and inserting "Victorville" and by inserting "Mojave" after "reconstruct";

(5) in item number 100, relating to Arkansas, by striking "Thornton" and inserting "Little Rock";

(6) in item number 113, relating to Durham County, North Carolina, by inserting after "Route 147" the following: ", including the interchange at I–85"; and

(7) in item number 114, relating to Corpus Christi to Angleton, Texas, by striking "Construct new multi-lane freeway" and inserting "Construct a 4-lane divided highway".

SEC. 159. INTERMODAL PROJECT.

The table contained in section 1108(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2060–2063) is amended in item number 9, relating to E. Haven/Wallingford, Connecticut—

(1) by striking "$8.8" and inserting "$7.5";

(2) by striking "$2.4" and inserting "$2.0"; and

(3) by striking "$0.7" and inserting "$0.6".

SEC. 160. MISCELLANEOUS INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT AMENDMENTS.

(a) CROSS REFERENCE IN HIGHWAY USE TAX EVASION PROGRAM.—Section 1040(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 1992) is amended by striking "(e)" and inserting "(f)".

(b) REPORT TO CONGRESS ON QUALITY IMPROVEMENT.—Section 1043(b) of such Act (105 Stat. 1993) is amended by inserting "General" after "Comptroller".

(c) PERIOD OF AVAILABILITY OF FUNDS FOR MISCELLANEOUS PROJECTS.—Section 1069 of such Act is amended—

(1) by striking the last sentence of subsection (y); and

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

"(ii) PERIOD OF AVAILABILITY.—Funds provided to carry out this section shall remain available until expended.".

(d) FINAL RULE FOR ROADSIDE BARRIERS AND SAFETY APPURTENANCES.—Section 1073(b) of such Act (105 Stat. 2012) is amended by striking "1 year" and inserting "2 years".

(e) INTERSTATE STUDY COMMISSION.—Section 1099 of such Act (105 Stat. 2026) is amended—

(1) by striking "bill" and inserting "Act";

(2) by striking "passage of this legislation" and inserting "the enactment of this Act";

(3) by inserting after "Columbia" the second place it appears the following: "appointed by the Governors of the States of Maryland and Virginia and the Mayor of the District of Columbia, respectively"; and

(4) by striking "appointed by the Governors and the Mayor" and inserting ", 1 each for Maryland, Virginia, and the District of Columbia appointed by the Governors and the Mayor, respectively".

(f) DRUG RECOGNITION EXPERT TRAINING PROGRAM.—Section 2006(b) of such Act (23 U.S.C. 403 note; 105 Stat. 2080) is amended by inserting "Federal" before "Advisory".

(g) APPLICABILITY OF OBLIGATION CEILING TO CERTAIN HIGHWAY SAFETY PROGRAMS.—Section 2009 of such Act (105 Stat. 2080) is amended—

(1) by striking "(a) IN GENERAL.—";

(2) by striking "211(b)" the first place it appears and inserting "211";

(3) by striking "102" and inserting "1002"; and

(4) by striking subsection (b).

SEC. 161. DISADVANTAGED BUSINESS ENTERPRISE PROGRAM.

In administering section 1003(b) of the Intermodal Surface Transportation Efficiency Act of 1991, the limitation on annual gross receipts of a small business concern set forth in paragraph (2)(A) of such section shall be the only limitation on annual gross receipts which applies to small business concerns.

SEC. 162. AMENDMENTS TO SURFACE TRANSPORTATION AND UNIFORM RELOCATION ASSISTANCE ACT OF 1987.

(a) NEW RIVER, WEST VIRGINIA.—Section 149(a)(62) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 191) is amended by striking "in the vicinity of" and inserting "on the west side of".

(b) BURBANK-GLENDALE-PASADENA AIRPORT, CALIFORNIA.—Section 149(a)(69) of such Act (101 Stat. 191) is amended—

(1) in the first sentence by striking "highway";

(2) in the first sentence by striking "and construction of terminal and parking facilities at such airport"; and

(3) by striking "by making" in the second sentence and all that follows through the period at the end of such sentence and inserting: "by preparing a feasibility study and conducting preliminary engineering, design, and construction of a link between such airport and the commuter rail system that is being developed by the Los Angeles County Metropolitan Transportation Authority.".

SEC. 163. FREEWAY SERVICE PATROLS.

(a) GENERAL RULE.—Except to the extent that the Secretary shall find that it is not feasible, any funds expended in a fiscal year directly or indirectly for freeway service patrols from amounts made available to a State under titles I and III of the Intermodal Surface Transportation Efficiency Act of 1991 shall be expended with privately owned or privately operated business concerns. The preceding sentence shall not apply to any publicly owned or operated freeway service patrol that was in operation before the date of the enactment of this Act.

(b) DEFINITION.—For purposes of this section, the term "freeway service patrol" means automotive road service vehicles and automotive towing vehicles operated in a continuous, dedicated service as part of an incident management program.

SEC. 164. PAN AMERICAN HIGHWAY.

(a) STUDY.—The Secretary shall conduct a study on the adequacy of and the need for improvements to the Pan American Highway.

(b) ELEMENTS.—The study to be conducted under subsection (a) shall at a minimum include the following elements:

(1) Findings on the benefits of constructing a highway at Darien Gap, Panama and Colombia.

(2) Recommendations for a self-financing arrangement for completion and maintenance of the Pan American Highway.

(3) Recommendations for establishing a Pan American highway authority to monitor financing, construction, maintenance, and operations of the Pan American Highway.

(4) Findings on the benefits to trade and prosperity of a more efficient Pan American Highway.

(5) Findings on the benefits to United States industry through the use of United States technology and equipment in construction of improvements to the Pan American Highway.

(6) Findings on environmental considerations, including environmental considerations relating to the Darien Gap.

(c) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this section.

TITLE II—FEDERAL TRANSIT PROGRAMS

SEC. 201. SECTION 3 PROGRAM AMENDMENTS.

(a) LETTERS OF INTENT.—Section 3(a)(4)(E) of the Federal Transit Act (49 U.S.C. App. 1602(a)(4)(E)) is amended—

(1) in the first sentence by striking "letters of intent" and all that follows through "shall not exceed the" and inserting "letters of intent, early systems work agreements, and full funding grant agreements shall not exceed the"; and

(2) in the second sentence by striking "new letters issued" and all that follows through "shall not exceed any" and inserting "new letters issued and contingent commitments included in early systems work agreements and full funding agreements shall not exceed any".

(b) ASSURED TIMETABLE FOR FINAL DESIGN STAGE.—Section 3(a)(6)(C) of the Federal Transit Act (49 U.S.C. App. 1602(a)(6)(C)) is amended by inserting before the period at the end the following: "or, if an environmental impact statement is not required for such project, the date of completion of an environmental assessment for such project or of a finding of no significant impact".

(c) RAIL MODERNIZATION.—Section 3(h) of such Act is amended in paragraph (6) by striking "paragraph" and inserting "subsection".

(d) NONAPPLICABILITY.—Section 3(i)(5)(C) of such Act is amended by striking "the Federal-Aid Highway Act of 1991" and inserting the following: "title 23, United States Code,".

(e) TRANSITIONAL PROVISION FOR PROGRAMS OF INTERRELATED PROJECTS.—Section 3011(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (49 U.S.C. App. 1602 note; 105 Stat. 2098) is amended by inserting after "interrelated projects" the following: "but excluding any project for which a timetable for project review or for Federal funding is provided for by a provision of law other than section 3(a)(6) of the Federal Transit Act and for which such timetable is different than the timetable established by such section".

(f) CONFORMING AMENDMENTS.—Section 3007 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2091) is amended—

(1) in paragraph (5)(B) by striking the comma which precedes the closing quotation marks and the semicolon; and

(2) in paragraph (6) by striking the comma which precedes the closing quotation marks and the final period.

SEC. 202. METROPOLITAN PLANNING.

(a) TECHNICAL AMENDMENTS.—Section 8 of the Federal Transit Act (49 U.S.C. App. 1607) is amended—

(1) in subsection (f)(5) by inserting "of title 23, United States Code" after "133";

(2) in subsection (f)(9) by striking "of this title" and inserting "of such title";

(3) in subsection (f)(11) by inserting "passengers and" before "freight";

(4) in subsection (g)(5) by redesignating subparagraphs (i) and (ii) as subparagraphs (A) and (B), respectively;

(5) in subsection (i)(3) by striking "this title and the Federal Transit Act" and inserting "title 23, United States Code, and this Act";

(6) in subsection (i)(4) by striking "or pursuant to the Federal Transit" and inserting ", or pursuant to this";

(7) in subsection (i)(5) by inserting "of title 23, United States Code," after "section 134";

(8) in subsection (i)(5) by inserting "of such title" after "104(b)(3)";

(9) in subsection (i)(5) by inserting "of such title" after "133(d)(3)" each place it appears;

(10) in subsection (i)(5) by striking "the Federal Transit" the first 2 places it appears and inserting "this";

(11) in subsection (i)(5) by striking "section 8(o) of the Federal Transit Act" and inserting "subsection (o) of this section";

(12) in subsection (m)(1) by striking "or the Federal Transit" and inserting ", or this";

(13) in each of subsections (p)(2) and (p)(4) by striking "section 8" the first place it appears and inserting "this section";

(14) in subsection (p)(2) by striking "section 8 of this Act" and inserting "this section";

(15) in subsection (p)(3) by striking "subparagraph (B)" and inserting "paragraph (2)"; and

(16) in subsection (p)(5) by striking "paragraph" and inserting "section".

(b) FACTORS TO BE CONSIDERED.—Section 8(f) of such Act is amended by adding at the end the following new paragraph:

"(16) Recreational travel and tourism.".

(c) LONG RANGE PLAN.—Section 8(g)(2)(B) of such Act is amended by striking "long-range" and inserting "long range".

(d) TRANSFER OF FUNDS.—Section 8(k) of such Act is amended by striking the last sentence.

(e) NONATTAINMENT AREA REQUIREMENTS.—Section 8(l) of such Act is amended by striking "transit" and inserting "highway".

SEC. 203. FORMULA GRANT PROGRAM.

(a) TRANSIT SECURITY SYSTEMS.—Section 9(e)(3) of the Federal Transit Act (49 U.S.C. App. 1607a(e)(3)) is amended by inserting before "and any other" in the last sentence the following: "employing law enforcement or security personnel in areas within or adjacent to such systems;".

(b) LIMITATION ON FUNDING OF OPERATING ASSISTANCE.—Section 9(k)(2)(A) of such Act is amended by adding at the end the following new sentence: "If an urbanized area had a population under the 1980 decennial census of the United States of more than 1,000,000 and has a population under the 1990 decennial census of less than 1,000,000, the maximum percentage of funds which may be used for operating assistance for purposes of the first sentence shall be 90 percent of the amount of funds apportioned in fiscal year 1982 under such paragraphs (1)(A), (2)(A), and (3)(A) to such area.".

(c) GRANDFATHER OF CERTAIN URBANIZED AREAS.—Section 9(s)(2) of such Act is amended by striking "fiscal year 1993," and inserting "each of fiscal years 1993 and 1994,".

(d) FERRYBOAT OPERATIONS.—For purposes of calculating apportionments under section 9 of the Federal Transit Act for fiscal years beginning after September 30, 1993, 50 percent of the ferryboat revenue vehicle miles and 50 percent of the ferryboat route miles attributable to service provided to the city of Avalon, California, for which the operator receives public assistance shall be included in the calculation of "fixed guideway vehicle revenue miles" and "fixed guideway route miles" attributable to the Los Angeles urbanized area under sections 9(b)(2) and 15 of such Act.

SEC. 204. MASS TRANSIT ACCOUNT BLOCK GRANTS.

Section 9B(a) of the Federal Transit Act (49 U.S.C. App. 1607a–2(a)) is amended by striking "subsections (b) and (c) of".

SEC. 205. GRANTS FOR RESEARCH AND TRAINING.

(a) NATIONAL CENTER.—Section 11(b)(10)(A) of the Federal Transit Act (49 U.S.C. 1607c(b)(10)(A)) is amended by striking "technology" and inserting "Technology".

(b) APPLICABILITY OF OBLIGATION CEILING TO FUNDING FOR UNIVERSITY TRANSPORTATION CENTERS.—Section 11(b)(12) of such Act is amended by striking "102" and inserting "1002".

(c) INTERNATIONAL INSTITUTE FOR SURFACE TRANSPORTATION POLICY STUDIES.—Section 11(c) of such Act is amended—

(1) in the heading to paragraph (1) by striking "INSTITUTE FOR NATIONAL" and inserting "INTERNATIONAL INSTITUTE FOR";

(2) in paragraph (1) by striking "an institute for national" and inserting "an international institute for";

(3) in paragraph (3) by striking "through the Institute for Transportation Research and Education and" and inserting a comma;

(4) in paragraph (3) by inserting a comma after "South Florida"; and

(5) in paragraph (6) by striking "through the Institute for Transportation Research and Education".

SEC. 206. GENERAL PROVISIONS.

(a) RAIL TRACKAGE RIGHTS AGREEMENTS.—Section 12(c)(1) of the Federal Transit Act (49 U.S.C. App. 1608(c)(1)) is amended by inserting "payments for the capital portions of rail trackage rights agreements," after "rights-of-way,".

(b) TECHNICAL AMENDMENT.—The first sentence of section 12(f)(1) of such Act is amended by striking "such State of local" and inserting "such State or local".

(c) TURNKEY SYSTEM PROJECT.—Section 12(l) of such Act is amended—

(1) in paragraph (1)(C) by striking "is" and inserting "may be"; and

(2) in paragraph (3) by striking "the date of the enactment of this Act" and inserting "the date of the enactment of the Intermodal Surface Transportaton Efficiency Act of 1991".

(d) SALE OF CAPITAL ASSETS.—Section 12 of such Act is further amended by adding at the end the following new subsection:

"(n) SALE OF CAPITAL ASSETS.—

"(1) IN GENERAL.—If a recipient of assistance under this Act determines that facilities and equipment and other assets (including land) acquired, in whole or in part, with such assistance are no longer needed for the purposes for which they were acquired, the Secretary shall authorize the sale of the assets with no further obligation to the Federal Government if the Secretary determines that—

"(A) there are no purposes eligible for assistance under this Act for which the asset should be used; and

"(B) the proceeds from the sale of the asset will be used by the recipient to procure items eligible for capital assistance under this Act.

"(2) RELATIONSHIP TO OTHER LAWS.—The provisions of this subsection shall be in addition to and not in lieu of any other provision of law governing use and disposition of facilities and equipment under an assistance agreement.".

SEC. 207. PERIOD OF AVAILABILITY AND REAPPORTIONMENT OF SECTION 16 FUNDS.

Section 16 of the Federal Transit Act (49 U.S.C. App. 1612) is amended—

(1) in subsection (b) by inserting "and" after the semicolon at the end of paragraph (1);

(2) in subsection (b) by striking "; and" at the end of paragraph (2) and inserting a period;

(3) in subsection (b) by striking paragraph (3) and inserting the following:

"Eligible capital expenses under this subsection may include, at the option of the recipient, the acquisition of transportation services under a contract, lease, or other arrangement.";

(4) in subsection (c)(4) by striking "the enactment of the Federal Transit Act" and inserting "the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991";

(5) by adding at the end of subsection (c) the following new paragraph:

"(5) PERIOD OF AVAILABILITY.—Sums apportioned under this subsection shall be available for obligation by the State for a period of 2 years following the close of the fiscal year for which the sums are apportioned and any amounts remaining unobligated at the end of such period shall be reapportioned among the States for the succeeding fiscal year.";

(6) in subsection (e) by striking "handicapped and elderly individuals" and inserting "elderly persons and persons with disabilities"; and

(7) in subsection (e) by striking "such individuals" and inserting "such persons".

SEC. 208. RURAL TRANSIT PROGRAM.

The second sentence of section 18(a) of the Federal Transit Act (49 U.S.C. App. 1614(a)) is amended by striking the final period.

SEC. 209. NONDISCRIMINATION.

Section 19 of the Federal Transit Act (49 U.S.C. App. 1615) is amended—

(1) by striking "(1)" each place it appears;

(2) by redesignating paragraphs (2), (3), (4) and (5) as subsections (b), (c), (d), and (e), respectively;

(3) in subsection (c) as so redesignated—

(A) by striking "(A)" and inserting "(1)";

(B) by striking "(B)" and inserting "(2)";

(C) by striking "paragraph (a)" and inserting "paragraph (1)";

(D) by striking "(i)" and inserting "(A)";

(E) by striking "(ii)" and inserting "(B)";

(F) by striking "(iii)" and inserting "(C)"; and

(G) by striking "(iv)" and inserting "(D)"; and

(4) in subsection (d) as so redesignated by striking "(a)(3)(B)(ii)" and inserting "(c)(2)(B)".

SEC. 210. AUTHORIZATIONS.

(a) FORMULA GRANT PROGRAM FROM TRUST FUND.—Section 21(a)(1) of the Federal Transit Act (49 U.S.C. App. 1617(a)(1)) is amended—

(1) by striking "8 9B," and inserting "6, 8, 9B, 10,"; and

(2) by inserting "20," after "18,".

(b) FORMULA GRANT PROGRAM FROM GENERAL FUND.—Section 21(a)(2) of such Act is amended—

(1) by striking "8 9," and inserting "6, 8, 9, 10,"; and

(2) by inserting "20," after "18,".

(c) SETASIDE FOR PLANNING, PROGRAMMING, AND RESEARCH.—Section 21(c) of such Act is amended—

(1) by inserting "beginning after September 30, 1992," after "each fiscal year";

(2) by striking "or appropriated" each place it appears;

(3) in paragraph (3) by striking "the State program under"; and

(4) in paragraph (4) by striking "the national program under".

(d) OTHER SETASIDES.—Section 21(d) of such Act is amended by striking "or appropriated" each place it appears.

(e) COMPLETION OF INTERSTATE TRANSFER TRANSIT PROJECTS.—Section 21(e) of such Act is amended by striking "$160,000,000" and all that follows through the period at the end and inserting "for fiscal years beginning after September 30, 1991, not to exceed $324,843,000. Such sums shall remain available until expended.".

SEC. 211. PROJECT MANAGEMENT OVERSIGHT.

Section 23 of the Federal Transit Act (49 U.S.C. App. 1619) is amended—

(1) in subsection (a) by striking "or 18" and inserting "and 18"; and

(2) in subsection (h) by striking "subsections (a) (1) through (5)" and inserting "subsection (a)".

SEC. 212. PLANNING AND RESEARCH PROGRAM.

(a) STATE PROGRAM.—Section 26(a) of the Federal Transit Act (49 U.S.C. App. 1622(a)) is amended to read as follows:

"(a) ALLOCATION OF PLANNING FUNDS.—

"(1) TRANSIT COOPERATIVE RESEARCH PROGRAM.—Fifty percent of the funds made available under sections 21(b)(3)(D) and 21(c)(3) shall be available for the transit cooperative research program to be administered as follows:

"(A) INDEPENDENT GOVERNING BOARD.—The Secretary shall establish an independent governing board for such program to recommend such transit research, development, and technology transfer activities as the Secretary deems appropriate.

"(B) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities as the Secretary determines are appropriate.

"(2) STATE PLANNING AND RESEARCH.—The remaining 50 percent of funds made available under sections 21(b)(3)(D) and 21(c)(3) shall be apportioned to the States for grants and contracts consistent with the purposes of sections 6, 8, 10, 11, and 20 of this Act in the ratio which the population in urbanized areas in each State bears to the total population in urbanized areas in all the States, as shown by the latest available decennial census, except that no State shall receive less than ½ of 1 percent of the amount apportioned under this subsection. In any case in which a statewide transit agency is responsible under State law for the financing, construction, and operation, directly, by lease, contract, or otherwise, of statewide public transportation services, such agency shall be the recipient for receiving and dispensing funds under this paragraph.

"(3) ALLOCATION WITHIN A STATE.—A State may authorize a portion of its funds made available under paragraph (2) to be used to supplement funds available under paragraph (1), as the State deems appropriate.".

(b) NATIONAL PROGRAM.—Section 26(b) of such Act is amended—

(1) in paragraph (1) by striking "section 21(c)(4)" and inserting "sections 21(b)(3)(E) and 21(c)(4)"; and

(2) in paragraph (2) by inserting "annually" after "$2,000,000".

(c) PILOT PROJECT.—Section 26(c)(4) of such Act is amended by striking "the date of the enactment of this Act" each place it appears and inserting "the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991".

SEC. 213. NEEDS SURVEY AND TRANSFERABILITY STUDY.

Section 27(b) of the Federal Transit Act (49 U.S.C. App. 1623(b)) is amended—

(1) in paragraph (1) by striking "(3)";

(2) in paragraph (2) by striking "such sections" and inserting "section 9(j) of this Act"; and

(3) in paragraph (2) by striking "With" and inserting "with".

SEC. 214. STATE RESPONSIBILITY FOR RAIL FIXED GUIDEWAY SYSTEM.

Section 28 of the Federal Transit Act (49 U.S.C. App. 1624(b)) is amended—

(1) in the section heading by inserting **"RAIL"** before **"FIXED GUIDEWAY"**; and

(2) in subsection (b)(1) by inserting "rail" before "fixed guideway".

SEC. 215. NATIONAL TRANSIT INSTITUTE.

Section 29 of the Federal Transit Act (49 U.S.C. App. 1625) is amended in the heading to subsection (b) by striking "FUNDING" and inserting "TRAINING OF STATE AND LOCAL GOVERNMENT TRANSPORTATION PERSONNEL".

SEC. 216. INCREASED FEDERAL SHARE.

The Federal Transit Act (49 U.S.C. App. 1601–1625) is amended by adding at the end the following new section:

"SEC. 30. INCREASED FEDERAL SHARE.

"(a) STATES WITH LARGE AREAS OF INDIAN AND CERTAIN PUBLIC DOMAIN LANDS.—In the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments, exceeding 5 percent of the total area of all lands in the State, the Federal share which, but for this subsection, would be applicable for any construction project under this Act shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in the State is of its total area.

"(b) STATES WITH LARGE AREAS OF INDIAN AND PUBLIC DOMAIN LANDS AND NATIONAL FORESTS, PARKS, AND MONUMENTS.—In the case of any State containing nontaxable Indian lands, individual and tribal, public domain lands (both reserved and unreserved), national forests, and national parks and monuments, the Federal share which, but for this subsection, would be applicable for any construction project under this Act shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State is of its total area.

"(c) MAXIMUM SHARE.—Notwithstanding subsections (a) and (b) of this section, the Federal share for any construction project under this Act shall not exceed 95 percent of the total cost of such project.

"(d) GRANT RECIPIENT AGREEMENT.—In any case where a grant recipient elects to have the Federal share provided in subsection (b) of this section, the grant recipient must enter into an agreement with the Secretary covering a period of not less than 1 year, requiring grant recipient to use solely for purposes eligible for assistance (other than operating assistance) under this Act (other than paying its share of projects approved under this Act) during the period covered by such agreement the difference between the grant recipient's share as provided in subsection (b) and what its share would be if it elected to pay the share provided in subsection (a) for all projects subject to such agreement.".

SEC. 217. PERFORMANCE REPORTS ON MASS TRANSIT SYSTEMS.

Section 308(e)(1) of title 49, United States Code, is amended by striking "January of each even-numbered year" and inserting "January 1994, January 1995, and January of each odd-numbered year thereafter".

SEC. 218. MISCELLANEOUS MULTIYEAR CONTRACTS.

(a) PORTLAND WESTSIDE LIGHT RAIL PROJECT.—Section 3035(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2129) is amended by inserting at the end the following: "The Hillsboro Extension to the Westside Light Rail Project shall be considered by the Federal Transit Administration as a single project extending from downtown Portland, Oregon, to downtown Hillsboro, Oregon, for the purposes of project review, evaluation, and approval of construction under section 3(i) of the Federal Transit Act and for the purpose of preparing a report under section 3(j) of such Act.".

(b) NEW JERSEY URBAN CORE PROJECT.—Section 3031(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2122–2123) is amended by inserting after "Hudson River Waterfront Transportation System" the following: "(including corridor connections to and within the city of Bayonne)".

(c) ADDITIONAL TRACKAGE RIGHTS AND RIGHT-OF-WAY PURCHASE FOR GILROY SERVICE.—Section 3035(h) of such Act (105 Stat. 2130) is amended—

(1) by striking "July 1, 1994" and inserting "September 30, 1996"; and

(2) by striking "August 1, 1994," and inserting "October 31, 1996,".

(d) DALLAS LIGHT RAIL PROJECT.—

(1) MULTIYEAR GRANT AGREEMENT.—Section 3035(i) of such Act (105 Stat. 2130) is amended—

(A) by striking "6.4 miles" and inserting "9.6 miles";

(B) by striking "10 stations" and inserting "not to exceed 14 stations";

(C) by striking "such light rail line" and inserting "the program of interrelated projects identified in section 3(a)(8)(C)(vii) of the Federal Transit Act"; and

(D) by striking "of such elements" and inserting "element of such program of interrelated projects".

(2) PROGRAM OF INTERRELATED PROJECTS.—Section 3(a)(8)(C)(vii) of the Federal Transit Act (49 U.S.C. App. 1602(a)(8)(C)(vii)) is amended by striking "Camp Wisdom" and inserting "Interstate Route 20, L.B.J. Freeway".

(e) SOUTH BOSTON.—Section 3035(j) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2130–2131) is amended—

(1) by inserting "the second place it appears" after "striking '—' "; and

(2) by adding at the end the following: "Funds made available for the South Boston Piers Transitway in fiscal year 1994 for alternatives analysis may also be used for construction.".

(f) KANSAS CITY LIGHT RAIL LINE.—Section 3035(k) of such Act (105 Stat. 2131) is amended

by striking "$1,500,000 in fiscal year 1992, and $4,400,000 in fiscal year 1993" and inserting "$5,900,000".

(g) ORLANDO STREETCAR DOWNTOWN TROLLEY PROJECT.—Section 3035(l) of such Act (105 Stat. 2131) is amended by inserting after "engineering" the following: "and the initiation of final design, construction, land and equipment acquisition, and related activities".

(h) SAN DIEGO MID COAST FIXED GUIDEWAY PROJECT.—Section 3035(u) of such Act (105 Stat. 2132) is amended—

(1) in the subsection heading by striking "LIGHT RAIL" and inserting "FIXED GUIDEWAY"; and

(2) by striking "Light Rail" and inserting "Fixed Guideway".

(i) EUREKA SPRINGS, ARKANSAS.—Section 3035(z) of such Act (105 Stat. 2133) is amended by striking "1992" each place it appears and inserting "1994" and by striking "electrically powered bus" and inserting "alternatively fueled vehicle".

(j) BALTIMORE-CENTRAL LIGHT RAIL EXTENSION.—Section 3035(nn)(1) of such Act (105 Stat. 2134–2135) is amended by striking "as follows:

"(A) Not less than $30,000,000 for fiscal year 1993.

"(B) Not less than $30,000,000 for fiscal year 1994."

and inserting "and shall not be less than $60,000,000.".

(k) JACKSONVILLE AUTOMATED SKYWAY EXPRESS EXTENSION.—Section 3035(vv) of such Act (105 Stat. 2136) is amended to read as follows:

"(vv) JACKSONVILLE AUTOMATED SKYWAY EXPRESS EXTENSION.—Not later than April 30, 1994, the Secretary shall negotiate and sign an agreement which modifies the full funding agreement signed on September 27, 1991, with the Jacksonville Transportation Authority for phase 1–B of the north segment of the Automated Skyway Express project to make available $15,000,000 in already appropriated funds and $35,000,000 under section 3(k)(1)(B) of the Federal Transit Act to carry out construction of the locally preferred alternative for an operable segment of a not to exceed 1.8 mile extension to such project.".

SEC. 219. CROSS REFERENCE TO FEDERAL TRANSIT ACT.

Section 176 of the Clean Air Act (42 U.S.C. 7506) is amended in each of subsections (c)(2) and (d) by striking "Urban Mass Transportation" each place it appears and inserting "Federal Transit".

TITLE III—MISCELLANEOUS SURFACE TRANSPORTATION PROGRAMS

SEC. 301. PARTICIPATION IN INTERNATIONAL REGISTRATION PLAN AND INTERNATIONAL FUEL TAX AGREEMENT.

Section 4008(j) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2155) is amended by striking "102" in the second sentence and inserting "1002".

SEC. 302. INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.

(a) OPERATIONAL TESTING PROJECTS.—Section 6055(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2192–2193) is amended by inserting "and enter into cooperative agreements and contracts with" after "The Secretary may make grants to".

(b) FUNDING.—Section 6058 of such Act (105 Stat. 2194–2195) is amended—

(1) in the second sentence of subsection (d) by striking "projects undertaken pursuant to subsection (c) of this section" and inserting "activities undertaken with funds made available under subsection (b) and activities undertaken with funds subject to subsection (c)";

(2) in subsection (e) by striking "102" and inserting "1002"; and

(3) by adding at the end the following new subsection:

"(f) NONAPPLICABILITY OF OTHER REQUIREMENTS OF LAW.—A person (including a public agency) that does not receive assistance under title 23, United States Code, the Federal Transit Act, or any provision of this Act (other than the Intelligent Vehicle-Highway Systems Act of 1991) shall not be subject to any Federal design standard, law, or regulation applicable to persons receiving such assistance solely by reason of such person receiving assistance under this section.".

SEC. 303. TITLE 49, UNITED STATES CODE, AMENDMENTS.

The analysis for chapter 1 of title 49, United States Code, is amended—

(1) by striking "Sec. 110. Saint Lawrence Seaway Development Corporation."; and

(2) by striking "Sec. 111." and inserting "111.".

SEC. 304. SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982 AMENDMENTS.

(a) MOTOR CARRIER SAFETY GRANT PROGRAM.—Section 402 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2302) is amended—

(1) by moving each of subparagraphs (H) through (N) (including any clauses therein) 2 ems to the left;

(2) in subsection (b)(1)(N) by striking "give" and inserting "gives"; and

(3) in subsection (d) by striking "3" and inserting "5".

(b) CARGO CARRYING UNIT LIMITATION.—Section 411(j)(5)(D) of such Act (49 U.S.C. App. 2311(j)(5)(D)) is amended by striking "prohibited under" and inserting "subject to".

SEC. 305. COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1986 AMENDMENTS.

(a) SECTION 12011.—Section 12011 of the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2710) is amended—

(1) in each of subsections (a) and (b) by striking "104(b)(5), and 104(b)(6)" and inserting "104(b)(3), and 104(b)(5)"; and

(2) in subsection (c)(1)(A)(ii) by striking "104(b)(6)" and inserting "104(b)(3)".

(b) SECTION NUMBER REDESIGNATION.—Such Act is further amended by redesignating the second section 12020, relating to violation of out-of-service orders, as 12021.

SEC. 306. CLEVELAND HARBOR, OHIO.

Section 1079 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2018–2019) is amended—

(1) by striking the semicolon at the end of subsection (b) and inserting a period; and

(2) in subsection (d)—

(A) by striking "279.31 feet" and inserting "269.31 feet";

(B) by striking "127.28 feet" and inserting "137.28 feet";

(C) by striking the comma following "Grid System";

(D) by striking "33°–53′–08″ east" the first place it appears and inserting "33°–53′–08″ west";

(E) by striking "north-westerly" and inserting "northwesterly"; and

(F) by striking "174,764 square feet (4.012 acres)" and inserting "175,143 (4.020 acres)".

SEC. 307. SURFACE TRANSPORTATION AND UNIFORM RELOCATION ASSISTANCE ACT OF 1987 AMENDMENTS.

Section 317(b) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (49 U.S.C. App. 1608 note; 101 Stat. 233) is amended—

(1) in paragraphs (2) and (3) by inserting "or cooperative agreement" after "contract" each place it appears; and

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

"(7) CONVERSION OF CONTRACTS.—The Secretary may convert existing contracts entered into under this subsection into cooperative agreements.".

SEC. 308. INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT TECHNICAL AMENDMENTS.

(a) NATIONAL RECREATIONAL TRAILS.—Section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2064–2068) is amended—

(1) in subsection (c) by striking "Act" each place it appears and inserting "part";

(2) in subsection (c)(2)(B) by inserting after "reserves" the following: "an amount equivalent to";

(3) in subsection (d)(1) by striking "national surveys" and inserting "a 1-time national survey";

(4) by adding at the end of subsection (d)(1) the following:

"The 3 percent limitation in the preceding sentence shall not apply to expenditures to pay the cost of conducting the 1-time national survey described in subparagraph (C).";

(5) in subsection (e)(8)(B) by inserting "the State" before "may be exempted"; and

(6) in subsection (e)(8)(B) by inserting "funds may be" before "expended or committed".

(b) SOUTHERN FLORIDA COMMUTER RAIL.—Section 3014 of such Act (105 Stat. 2108) is amended by striking "(49 U.S.C. 1607a)".

(c) ROAD TESTING OF LCV'S.—Section 4007(d)(1) of such Act (49 U.S.C. App. 2302 note) is amended by striking "on board" and inserting "onboard".

(d) NATIONAL COMMISSION ON INTERMODAL TRANSPORTATION.—Section 5005 of such Act (49 U.S.C. 301 note; 105 Stat. 2160–2162) is amended—

(1) in subsection (d)(1) by striking "11 members" and inserting "15 members";

(2) in subsection (d)(1)(A) by striking "3 members" and inserting "7 members"; and

(3) in subsection (i) by striking "1993" and inserting "1994".

(e) SECTION 6017.—Section 6017 of such Act (105 Stat. 2183) is amended by striking "502(a)" and inserting "5002(a)".

SEC. 309. IMPROVED BUS SAFETY.

(a) APPLICABILITY OF FEDERAL MOTOR CARRIER SAFETY REGULATIONS TO BUS OPERATIONS OF PRIVATE MOTOR CARRIERS OF PASSENGERS.—Section 206 of the Motor Carrier Safety Act of 1984 (49 U.S.C. App. 2505) is amended by striking subsection (h) and inserting the following new subsection:

"(h) APPLICABILITY TO BUS OPERATIONS OF PRIVATE MOTOR CARRIER OF PASSENGERS.—Not later than 6 months after the date of the enactment of this subsection, the Secretary shall issue regulations making the relevant commercial motor carrier safety regulations issued under subsection (a) applicable to all operations by private motor carriers of commercial motor vehicles providing transportation of passengers in interstate commerce.".

(b) EDUCATION PROGRAM.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation shall develop and implement an education program to inform all private motor carriers of passengers that they must comply with the Federal commercial motor vehicle safety regulations issued under section 206 of the Motor Carrier Safety Act of 1984 when providing commercial motor vehicle transportation of passengers in interstate commerce.

(c) REPORTS.—

(1) INITIAL REPORT.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report describing in detail the regulations that have been issued pursuant to subsection (a) and the status of the education program being developed and implemented under subsection (b).

(2) SUBSEQUENT REPORTS.—Each year for a period of 4 years on the annual anniversary date of the report submitted to Congress under paragraph (1), the Secretary of Transportation shall submit to Congress a report describing in detail the status of enforcement of the Federal commercial motor vehicle safety regulations issued under section 206 of the Motor Carrier Safety Act of 1984 to operations by private motor carriers of commercial motor vehicles providing transportation of passengers in interstate commerce.

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the rule, the gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes, and the gentleman from Missouri [Mr. EMERSON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 3276.

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

There was no objection.

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

Mr. Speaker, H.R. 3276 provides for technical, conforming, and clarifying amendments to correct mistakes and omissions in the Intermodal Surface Transportation Efficiency Act of 1991 and related law.

The bill also makes necessary, noncontroversial, minor policy changes to facilitate ISTEA's implementation.

I would like to make it clear that the bill creates no new budget authority, does not authorize new transportation demonstration projects, and does not earmark apportioned funds for any new purpose.

This is a no-fat, sodium-free, low-cholesterol technical corrections bill.

In effect, it is sugar-free ISTEA.

Title I of the bill relates to the highway program. Provisions of this title make a number of technical and conforming amendments such as providing for the proper reference to the Dwight D. Eisenhower System of Interstate and Defense Highways, providing for high priority corridors to be part of the interim National Highway System, and making a series of technical, conforming, and clarifying amendments to the metropolitan and statewide planning, toll road, bridge, safety, Federal lands highway and bicycle transportation-pedestrian walkway programs of ISTEA.

Provisions of this title also make technical and clarifying amendments to project descriptions under the congestion relief, high priority corridor, rural access, urban and mobility, and innovative project categories.

Title II makes a number of technical, conforming, and clarifying amendments to transit programs such as those involving metropolitan planning and ferryboat operations. Provisions of this title also correct project descriptions under the section 3 discretionary grant program.

And finally, title III makes technical and conforming amendments to programs involving intelligent vehicle highway systems, the Motor Carrier Safety Act, and the recreational trails provisions of ISTEA.

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

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

Mr. Speaker, I rise today in support of H.R. 3276, the ISTEA Technical Corrections Act.

In 1991, we enacted the landmark Intermodal Surface Transportation Efficiency Act, ISTEA, which set our Nation's transportation policy on a new course. In the 2 years since ISTEA's enactment, however, we have become aware of certain minor, inadvertent defects and mistakes which impede the proper implementation of ISTEA's programs. This ISTEA Technical Corrections Act makes these necessary changes to ISTEA.

I want to congratulate Chairman MINETA, Mr. SHUSTER, Mr. RAHALL, and Mr. PETRI on bringing this bill to the floor today and thank them for all of their hard work in producing this important legislation.

I want to emphasize that the bill before you today is truly clean and noncontroversial legislation. It is so clean that I believe it has earned its nickname—"sugar-free" ISTEA. This bill authorizes no new money, contains no controversial policy changes, and authorizes no new projects at all. It is limited to necessary technical corrections and minor policy changes and should be supported by all Members of this body.

In an effort to keep this bill clean and limited to truly technical changes we were unable to include a number of worthwhile, but significant, controversial or costly measures which were not truly technical in nature. I assure my colleagues that we will consider these and other worthy provisions next spring when we take up the National Highway System legislation.

The changes made by this technical corrections bill are important, and it is my sincere hope that bill will be considered and quickly passed by the Senate this year.

I urge all of my colleagues to support this bill.

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

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

Mr. Speaker, I wish to commend our ranking minority member, the gentleman from Wisconsin [Mr. PETRI], for his work on this legislation. As well, I wish to commend the gentleman from Missouri [Mr. EMERSON] for his work and his comments. In addition, I wish to commend our ranking Republican member, the gentleman from Pennsylvania [Mr. SHUSTER], as well as the distinguished chairman of the full committee, the gentleman from California [Mr. MINETA], who were most helpful in the drafting of this legislation. Of course, those individuals were involved in the original ISTEA legislation. So I commend the full membership of the Committee on Public Works and Transportation as well for their help.

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

Mr. EMERSON. Mr. Speaker, I yield such time as he may consume to my dear friend and colleague, the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Speaker, I rise in support of this bill.

I first want to thank the leadership and members of the Public Works Committee, and in particular the gentleman from West Virginia, for including a provision proposed by this gentleman and my colleague in the Kentucky delegation, Mr. BARLOW.

The 1991 Intermodal Surface Transportation Act authorized an east-west trans-America corridor on the National Highway System, also known as the I-66 corridor.

H.R. 3276 contains an amendment which stipulates the route of the I-66 corridor in southern and eastern Kentucky, consistent with the early planning studies now underway.

This ensures that a new I-66 will come through our eastern Kentucky region, bringing economic development and jobs.

Mr. Speaker, the mountain communities in my eastern Kentucky district, like Pikeville, Jenkins, Hazard, London, and Somerset—their families and business people—want to be a part of the transcontinental I-66 project. And speaking for them today, I want to thank the members of the committee and the House for their support towards that same goal.

I urge the House to adopt this bill.

Mr. EMERSON. Mr. Speaker, I wish to thank the gentleman from Kentucky [Mr. ROGERS] for the statement that has just been made and to associate myself with his remarks.

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

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

Mr. Speaker, I thank the gentleman from Kentucky [Mr. ROGERS] as well for his comments. Our districts border each other and we share many of the same problems and concerns with our mutual constituencies. The description of the language the gentleman has just given is appropriate. I commend him for his work in helping us put this particular section in this legislation as well.

Ms. SNOWE. Mr. Speaker, I heartily endorse H.R. 3276, a bill making simple technical amendments and minor policy clarifications to the Intermodal Surface Transportation Efficiency Act of 1991 [ISTEA].

One of these policy clarifications is urgently needed. Section 153 of ISTEA penalizes States that have not enacted mandatory motorcycle helmet and seat belt safety laws by September 30, 1993. States failing to enact such laws by the deadline will have 1.5 percent of their highway construction funds diverted to highway safety programs in fiscal year 1995. The penalty increases to 3 percent the following year. H.R. 3276 changes the deadline for compliance to September 30, 1994, giving States an additional year to comply.

I fully support the 1 year delay in the deadline date. However, I remain fully committed to outright repeal of section 153. Maine is facing the prospect of having roughly $850,000 in fiscal year 1995 highway transportation funds diverted away from much needed highway construction projects and into already funded highway safety programs. In the next fiscal year, the State could face a penalty diversion of $1.7 million.

Maine has always spent its Federal money carefully, making every effort to ensure that the best interests of its residents are met. It is completely unacceptable that the Federal Government should dictate to Maine how its highway funds must be spent. In essence, the Federal Government is forcing Maine—and other States—to waste valuable Federal resources.

Currently, 27 States are not in compliance with Federal law. Some of these States have enacted neither a mandatory seat belt nor a motorcycle helmet law, or failed to enact one or the other of these two requirements. It is interesting to note that a minority of our 50 States have seen fit to enact mandatory laws of this nature.

I object to the Federal Government's coercive tactics. My bill, H.R. 799, would address this problem by repealing section 153 of ISTEA. H.R. 799 has 116 cosponsors, over 25 percent of the House. I am looking forward to working with my colleagues on the Surface Transportation Subcommittee to move my much needed bill through the legislative process next year.

Mr. MINETA. Mr. Speaker, I rise in strong support of H.R. 3276, legislation making technical corrections to the Intermodal Surface Transportation Efficiency Act of 1991 [ISTEA].

As the distinguished chair of the subcommittee has stated, the bill is entirely technical corrections and minor policy items. This is a testament to the leadership of Chairman RAHALL and the subcommittee's ranking Republican member, Mr. PETRI, and they should be congratulated.

The 1991 ISTEA legislation developed and approved by the Committee on Public Works and Transportation is already helping to lay the groundwork for an innovative and effective transportation network as the United States enters the 21st century.

The ISTEA legislation was genuinely a new transportation policy for America, and a tremendous investment in our future.

As can be expected with any such comprehensive proposal, there were errors in the final version of the ISTEA legislation. This legislation we are considering today attempts to smooth over the wrinkles, change or clarify project details, and address some minor policy changes.

I'd like to take this opportunity to call to your attention one particular fact: there is no new budget authority or new project authorizations in this bill.

Some Members have indicated their interest in pursuing specific project authorizations and other major policy issues. I am pleased to report that the Committee has also announced plans to move legislation, mid-term through the ISTEA authorization period, to adopt the National Highway System [NHS].

This NHS approval legislation will also give us the opportunity to make necessary modifications to ISTEA programs which reflect changing needs as we move into the third year of ISTEA implementation.

I am completely supportive of this effort and want to assure Members that we have every intention of moving the NHS approval legislation in a timely manner.

In the interim, I urge my colleagues to support this important legislation.

Ms. FURSE. Mr. Speaker, I rise today in support of H.R. 3276, the Intermodal Surface Transportation Technical Corrections Act. H.R. 3276 contains an important provision which clarifies a provision in the original Intermodal Surface Transportation Efficiency Act [ISTEA] regarding the Westside Light Rail project in my district in Oregon.

In 1990, voters in Multnomah, WA and Clackamas County went to the polls and passed by 74 percent a general obligation bond measure to provide the local match for the Westside Light Rail, a project stretching from downtown Portland to downtown Hillsboro. Even in a year when the political tide was vehemently opposed to taxes, and a statewide property tax limitation was passed on the same ballott, voter support for light rail in the tricounty area was so prevalent that almost three out of every four citizens decided to put their money in Westside Light Rail. This is the type of broadbased support my district has for this important project. The bill before us today helps keep our commitment to the citizens who voted in that election by making an important modification to the language in the authorizing legislation.

I want to take a moment to thank Congressman DEFAZIO for the attention he has given this issue on the Public Works Committee. As a Member new to this Congress, he has gone out of his way for me personally on numerous occasions, and I want to pay him a special thanks. His work on behalf of Westside Light Rail and other important transportation policy matters in Oregon has earned him a well-deserved debt of gratitude from the entire delegation.

I also want to thank Chairman MINETA who worked very closely with my predecessor, LES AUCOIN, on Westside Light Rail, and the chairman of the Surface Transportation Subcommittee, Mr. RAHALL. I support the important clarifications of ISTEA in H.R. 3276, and urge my colleagues to support its passage in the House.

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

The SPEAKER pro tempore. The Question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 3276, as amended.

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

A motion to reconsider was laid on the table.

EL CAMINO REAL PARA LOS TEXAS STUDY ACT OF 1993

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 983) to amend the National Trails System Act to direct the Secretary of the Interior to study the El Camino Real Para Los Texas for potential addition to the National Trails System, and for other purposes.

The Clerk read as follows:

S. 983

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 "El Camino Real Para Los Texas Study Act of 1993".

SEC. 2. FINDINGS.

The Congress finds—

(1) El Camino Real Para Los Texas was the Spanish road established to connect a series of missions and posts extending from Monclova, Mexico to the mission and later Presidio Nuestra de Pilar de los Adaes which served as the Spanish capital of the Province of Texas from 1722 to 1772;

(2) El Camino Real, over time, comprised an approximately 1,000-mile corridor of changing routes from Saltillo through Monclova and Guerrero, Mexico; San Antonio and Nacogdoches, Texas and then easterly to the vicinity of Los Adaes in present day Louisiana; and constituted the only major overland route from the Rio Grande to the Red River Valley during the Spanish Colonial Period;

(3) the seventeenth, eighteenth, and early nineteenth century rivalries among the European colonial powers of Spain, France, and England and after their independence, Mexico and the United States, for dominion over lands fronting the Gulf of Mexico were played out along the evolving travel routes across this immense area; and, as well, the future of several American Indian nations were tied to these larger forces and events;

(4) El Camino Real and the subsequent San Antonio Road witnessed a competition that helped determine the United States southern and western boundaries; and

(5) the San Antonio Road, like El Camino Real, was a series of routes established over the same corridor but was not necessarily the same as El Camino Real; and that from the 1830's, waves of American immigrants, many using the Natchez Trace, travelled west to Texas via the San Antonio Road, as did Native Americans attempting to relocate away from the pressures of European settlement.

SEC. 3. STUDY OF TRAIL.

Section 5(c) of the National Trail System Act (16 U.S.C. 1244(c)) is amended by adding the following new paragraph at the end thereof:

"(36)(A) El Camino Real Para Los Texas, the approximate series of routes from Saltillo, Monclova, and Guerrero, Mexico across Texas through San Antonio and Nacagdoches, to the vicinity of Los Adaes, Louisiana, together with the evolving routes later known as the San Antonio Road.

"(B) The study shall—

"(i) examine the changing roads within the historic corridor:

"(ii) examine the major connecting branch routes;

"(iii) determine the individual or combined suitability and feasibility of routes for potential national historic trail designation;

"(iv) consider the preservation heritage plan developed by the Texas Department of Transportation entitled 'A Texas Legacy: The Old San Antonio Road and the Caminos Reales', dated January 1991; and

"(v) make recommendations concerning the suitability of establishing an international historical park where the trail crosses the United States-Mexico border at Maverick County, Texas, and Guerrero, Mexico.

"(C) The Secretary of the Interior is authorized to work in cooperation with the government of Mexico (including, but not limited to providing technical assistance) to determine the suitability and feasibility of establishing an international historic trail along the El Camino Real Para Los Texas.

"(D) The study shall be undertaken in consultation with the Louisiana Department of Transportation and Development and the Texas Department of Transportation.

"(E) The study shall consider alternative name designations for the trail.

"(F) The study shall be completed no later than two years after the date funds are made available for the study.".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

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

□ 1310

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

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

GENERAL LEAVE

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

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

There was no objection.

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

Mr. Speaker, S. 983, which passed the Senate on July 21, 1993, directs the Secretary of the Interior to study the El Camino Real Para Los Texas for potential addition to the National Trails System. A companion bill (H.R. 2160) was introduced in the House by Representative CHARLES WILSON.

The El Camino Real Para Los Texas—or The Royal Road to Texas—extended 1,000 miles from Saltillo, Mexico, through San Antonio and Nacogdoches, TX, up to Los Adeas in Louisiana. Approximately 650 miles of the trail are in Texas, 40 miles are in Louisiana, and 250 miles are in Mexico. The importance of the road is related to the 17th, 18th and early 19th century rivalries among the European colonial powers of Spain, France, and England. The bill provides for a study of the trail for potential addition to the National Trails System and allows the Secretary to work in cooperation with the Government of Mexico to study that portion of the trail which lies in Mexico. The administration supports the bill and it had unanimous support from the Committee on Natural Resources.

Mr. Speaker, this is a noncontroversial bill and I urge its adoption.

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

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 983, the El Camino Real Para Los Texas study trail.

As fully explained by the chairman, this 1,000 mile corridor represents an important historical route dating back to the 17th century. Composed of Indian trails, natural crossings, and exploratory routes, this corridor served the Spanish and French explorers, northern Mexico, Christians, Indians, European settlers, as well as troops during the Civil War. Stretching through Texas and Louisiana, this corridor is vital to understanding the history of the South and Southeast.

I urge my colleagues' support for S. 983.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 983.

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

A motion to reconsider was laid on the table.

EL CAMINO REAL DE TIERRA ADENTRO STUDY ACT OF 1993

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 836) to amend the National Trails System Act to provide for a study of El Camino Real de Tierra Adentro [The Royal Road of the Interior Lands], and for other purposes.

The Clerk read as follows:

S. 836

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 "El Camino Real De Tierra Adentro Study Act of 1993".

SEC. 2. FINDINGS.

Congress finds that—

(1) El Camino Real de Tierra Adentro was the primary route for nearly 300 years that was used by clergy, colonists, soldiers, Indians, officials, and trade caravans between Mexico and New Mexico;

(2) from the Spanish colonial period (1598–1821), through the Mexican national period (1821–1848), and through part of the United States Territorial period (1840–1912), El Camino Real de Tiera Adentro extended 1,800 miles from Mexico City through Chihuahua City, El Paso del Norte, and on to Santa Fe in northern New Mexico;

(3) the road was the first to be developed by Europeans in what is now the United States and for a time was one of the longest roads in North America; and

(4) El Camino Real de Tierra Adentro, until the arrival of the railroad in the 1880's witnessed and stimulated great multi-cultural exchanges and the evolution of nations, peoples, and cultures.

SEC. 3. DESIGNATION OF TRAIL.

Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended by adding at the end the following new paragraph:

"(36)(A) El Camino Real de Tierra Adentro, the approximately 1,800 mile route extending from Mexico City, Mexico, across the international boarder at El Paso, Texas, to Santa Fe, New Mexico.

"(B) The study shall—

"(i) examine the changing routes within the general corridor;

"(ii) examine major connecting branch routes; and

"(iii) give due consideration to alternative name designations.

"(C) The Secretary of the Interior is authorized to work in cooperation with the Government of Mexico (including, but not limited to providing technical assistance) to determine the suitability and feasibility of establishing an international historic route along the El Camino Real de Tierra Adentro.".

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

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

GENERAL LEAVE

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

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

There was no objection.

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

Mr. Speaker, S. 836, which passed the Senate on July 21, 1993, directs the Secretary of the Interior to study the El Camino Real de Tierra Adentro for potential addition to the National Trails System. A companion bill (H.R. 1838) was introduced in the House by Representatives BILL RICHARDSON and RON COLEMAN.

El Camino Real de Tierra Adentro, or The Royal Road to the Interior Lands, extended some 1,800 miles from Mexico City through El Paso, TX, to Santa Fe NM. The trail originated as an Indian trail following the Rio Grande River and served as a key travel route during the Spanish colonial period, the Mexican national period, and the United States territorial period. It was the primary route for clergy, colonists, soldiers, Indians, and trade caravans between what is today Mexico City and Santa Fe, NM. Approximately 350 miles of the trail are in New Mexico, 20 miles are in Texas, and 1,400 miles are in Mexico. The bill provides for a study of this trail for potential addition to the National Trails System and authorizes the Secretary to work in cooperation with the Government of Mexico to study that portion of the trail which lies in Mexico.

Mr. Speaker, this is a noncontroversial bill which is supported by the administration. I urge its adoption.

Mr. Speaker, the 20 miles of the trail in Texas touch a very important community there, El Paso, which is represented by our colleague, the gentleman from Texas [Mr. COLEMAN], who is the sponsor of this measure.

Mr. Speaker, as I commend him for his work on this study, I take great pleasure in yielding such time as he may consume to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN. Mr. Speaker, I thank the gentleman from Minnesota for yielding time to me. Mr. Speaker, I rise in support of S. 836, the Camino Real de Tierra Adentro Study Act, and urge its passage. S. 836 provides for the National Park Service to study the Camino Real from the international border at El Paso, TX, to Santa Fe, NM, for inclusion within the National Historic Trail System.

S. 836 is extremely timely because we face the risk of losing portions of the Camino Real to commercial development in the coming years if we do not act now to protect it. I come from one of the fastest growing regions in the country. I believe that irrespective of the outcome of the proposed North American Free-Trade Agreement [NAFTA], the region will continue to grow very rapidly over the next decade. It is important that we take steps now to protect this important part of our heritage before we lose the opportunity. I am confident that when the National Park Service study is completed, the study will recommend that El Camino Real be included in our National Historic Trail System.

El Camino Real is perhaps the most important piece of the history of the interior Southwest. It was the lifeblood of the development of commerce in the region and of my district of El Paso, TX, itself. Indeed, El Paso derives its name from the term given to it by travelers along El Camino Real, El Paso del Norte or the Pass of the North. I would like to share a brief history of the region in order to demonstrate the central role the Camino Real played in the development of the region.

For more than 300 years El Camino Real de Tierra Adentro [The Royal Highway of the Interior Lands] was the road used by conquistadors and clergy, native Americans and colonists, merchants and ranchers traveling between New Mexico and Mexico. Until legal trade between the United States and Mexico was established in 1821, El Camino Real served as the only commercial route linking the territories north of the Rio Grande with the outside world. As the only means of transporting men, goods, and ideas, El Camino Real served as the genesis of both commercial and cultural development in the territories of West Texas and New Mexico. The unique heritage of the American Southwest, with its blend of native American, Mexican, and Spanish traditions, is firmly rooted along the Camino Real.

Portions of the Camino Real had their origins in much older trails along the Rio Grande. These oldest trails were used primarily by the inhabitants of Taos Pueblo in New Mexico and extended to El Paso, TX. The route fostered trade and cultural exchanges between the Pueblo tribes and the inhabitants of Mexico.

The arrival of the Spanish in the 16th century saw the consolidation of these older trails to form the longest and oldest highway in the New World. El Camino Real came to serve as a commercial route between Santa Fe, NM, and Santa Barbara, Mexico. In 1598, Juan de Onate crossed the Rio Grande at El Paso and traveled north along the trail into New Mexico. Onate, who had been given permission by the Spanish King, brought with him 129 men, their families and thousands of head of livestock. Onate also brought a group of Franciscan friars with him in order to convert the inhabitants of the Pueblos. The trail Onate used became both a trading and communications route. By the time Santa Fe became the capital of the territory of New Mexico in 1610, El Camino Real was already a well established trade route to Mexico.

During the Pueblo revolt of 1680, which came as a result of the abuse of the Spanish settlers, El Camino Real was used as an escape route. The 2,400 fleeing Spaniards, accompanied by a large group of Tiwa Indians, eventually settled in El Paso. A presidio—or fortress—and two missions were established there. The missions and the presidio chapel still serve rural communities outside El Paso today. It was from these new settlements in El Paso that a mission to reconquer New Mexico was launched in 1692; putting the territory north of the Paso del Norte firmly in Spanish hands once again. Gradually, the hostility between the Spaniards and the Pueblo Indians subsided.

With the belief in the need to convert the native inhabitants of the region, missions sprang up along El Camino Real. During the course of the 17th century, a unique style of art and architecture, sometimes known as Mexican Baroque, evolved. This architectural style typifies the missions found in both the American Southwest and Mexico. Artifacts and paintings to decorate the ornate missions were brought along El Camino Real from Mexico City.

The missions attracted new settlers. Initially these settlements served as resting places for those traveling along El Camino Real; however, during the course of the 18th century increasing numbers of farms and ranches were established. These settlements were particularly concentrated in the Rio Grande Valley and were populated by a mixture of settlers of Spanish and Portuguese descent, as well as Genizaros, Ute, Wichita, Navajo, Apache, and Pawnee. By the close of the century, there was an almost continuous line of settlements the length of El Camino Real. These settlements consisted not only of farms and ranches but also of thriving urban centers, populated by artisans, craftsmen and merchants. El Camino Real served as a focal point for the convergence of the Spanish and native American cultures in the American Southwest.

When Mexico declared its independence from Spain in 1821, one of the first things the new Mexican Government did was relax traderestrictions against the United States. Suddenly, whole new market were available to merchants in both areas. The Santa Fe Trail was born. With the terminus of El Camino Real also in Santa Fe, commerce flourished. Although it became known as the Chihuahua Trail to Anglo-Americans, El Camino Real continued to play its historic role as the primary route between New Mexico and central Mexico after the surrender of the northern territories of Mexico to the United States in 1848. Only the advent of the railroads in the 1880's served to displace El Camino Real as the link between the populations north and south of the Rio Grande.

El Camino Real represents an important part of the heritage of the American Southwest. My friend from New Mexico [Mr. RICHARDSON] and I introduced a similar measure earlier this year, to ensure the preservation of this unique piece of our Nation's history. I want to thank the gentleman from Minnesota for moving this legislation forward in such a timely manner. This is a noncontroversial measure, which is supported by the administration and the States and the local communities. I urge its adoption so we may ensure that our children will have the opportunity to enjoy this part of our Nation's rich cultural heritage.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 836 which would study the feasibility of adding the 1,800-mile El Camino Real de Tierra Adentro Trail to the National Trails System.

This trail, also known as The Royal Road of the Interior Lands, was an 1,800-mile trail stretching from Mexico City, Mexico, to Santa Fe, NM, and used for nearly 300 years by missionaries, soldiers, Indians, and traders. The Spanish conquistadors entered what is now the United States via this trail. The first European settlements in the Southwest appeared along this trail and predated English settlements in the East by several decades.

This legislation merely authorizes a study to determine the feasibility and suitability of adding this trail to the National Trails System. Any actual trail designation would require a separate act of Congress. S. 836 is supported by the entire New Mexico congressional delegation.

I urge my colleagues to support S. 836.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 836.

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

A motion to reconsider was laid on the table.

PROVIDING FOR CONVEYANCE OF LANDS TO CERTAIN INDIVIDUALS IN BUTTE COUNTY, CA

Mr. VENTO. Mr. Speaker, I move that the House suspend the rules and pass the bill (H.R. 457) to provide for the conveyance of lands to certain individuals in Butte County, CA, as amended.

The Clerk read as follows:

H.R. 457

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

SECTION 1. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) certain landowners in Butte County, California who own property adjacent to the Plumas National Forest have been adversely affected by certain erroneous surveys;

(2) these landowners have occupied or improved their property in good faith and in reliance on erroneous surveys of their properties that they believed were accurate; and

(3) the 1992 Bureau of Land Management dependent resurvey of the Plumas National Forest will correctly establish accurate boundaries between such forest and private lands.

(b) PURPOSE.—It is the purpose of this Act to authorize and direct the Secretary of Agriculture to convey, without consideration, certain lands in Butte County, California, to persons claiming to have been deprived of title to such lands.

SEC. 2. DEFINITIONS.

For the purpose of this Act—

(1) the term "affected lands" means those Federal lands located in the Plumas National Forest in Butte County, California, in sections 11, 12, 13, and 14, township 21 north, range 5 east, Mount Diablo Meridian, as described by the dependent resurvey by the Bureau of Land Management conducted in 1992, and subsequent Forest Service land line location surveys, including all adjoining parcels where the property line as identified by the 1992 BLM dependent resurvey and National Forest boundary lines before such dependent resurvey are not coincident;

(2) the term "claimant" means an owner of real property in Butte County, California, whose real property adjoins Plumas National Forest lands described in subsection (a), who claims to have been deprived by the United States of title to property as a result of previous erroneous surveys; and

(3) the term "Secretary" means the Secretary of Agriculture.

SEC. 3. CONVEYANCE OF LANDS.

Notwithstanding any other provision of law, the Secretary is authorized and directed to convey, without consideration, all right, title, and interest of the United States in and to affected lands as described in section 2(1), to any claimant or claimants, upon proper application from such claimant or claimants, as provided in section 4.

SEC. 4. TERMS AND CONDITIONS OF CONVEYANCE.

(a) NOTIFICATION.—Not later than 2 years after the date of enactment of this Act, claimants shall notify the Secretary, through the Forest Supervisor of the Plumas National Forest, in writing of their claim to affected lands. Such claim shall be accompanied by—

(1) a description of the affected lands claimed;

(2) information relating to the claim of ownership of such lands; and

(3) such other information as the Secretary may require.

(b) ISSUANCE OF DEED.—(1) Upon a determination by the Secretary that issuance of a deed for affected lands is consistent with the purpose and requirements of this Act, the Secretary shall issue a quitclaim deed to such claimant for the parcel to be conveyed.

(2) Prior to the issuance of any such deed as provided in paragraph (1), the Secretary shall ensure that—

(A) the parcel or parcels to be conveyed have been surveyed in accordance with the Memorandum of Understanding between the Forest Service and the Bureau of Land Management, dated November 11, 1989;

(B) all new property lines established by such surveys have been monumented and marked; and

(C) all terms and conditions necessary to protect third party and Government Rights-of-Way or other interests are included in the deed.

(3) The Federal Government shall be responsible for all surveys and property line markings necessary to implement this subsection.

(c) NOTIFICATION TO BLM.—The Secretary shall submit to the Secretary of the Interior an authenticated copy of each deed issued pursuant to this Act no later than 30 days after the date such deed is issued.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as necessary to carry out the purposes of this Act.

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

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

GENERAL LEAVE

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

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

There was no objection.

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

Mr. Speaker, H.R. 457 is a bill by the gentleman from California [Mr. HERGER] that would provide for the conveyance of about 30 acres in Butte County, CA, to some 16 parties.

This conveyance would resolve title problems of adjoining private landowners caused by the Forest Service's acceptance of an incorrect boundary survey done by a private contractor. The errors in this survey were later shown by a resurvey of the area by the Bureau of Land Management.

The adjoining landowners had relied on the incorrect survey, and when its errors became known, they learned that lands they thought they owned were really owned by the United States. These are the lands that would be conveyed under the bill.

This is a noncontroversial bill to remove clouds from private lands titles, with only a technical amendment to correct the legal description of the lands involved.

I urge its approval by the House.

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

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 457. Sponsored by my good friend the gentleman from California [Mr. HERGER] this bill will finally clear title for approximately 13 landowners near the Plumas National Forest. Due to a long line of erroneous boundary surveys, title to about 20 acres is clouded by the Federal Government. These lands have been occupied and improved for years by private owners and it is time to clean up these titles once and for all.

I commend Mr. HERGER for his efforts and urge my colleagues' support for H.R. 457.

□ 1320

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

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

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 457, as amended.

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

A motion to reconsider was laid on the table.

EXTENSION OF INDIAN ENVIRONMENTAL GENERAL ASSISTANCE PROGRAM ACT OF 1992

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 654) to amend the Indian Environmental General Assistance Program Act of 1992 to extend the authorization of appropriations.

The Clerk read as follows:

S. 654

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

SECTION 1. EXTENSION OF AUTHORIZATION.

Subsection (h) of the Indian Environmental General Assistance Program Act of 1992 (42 U.S.C. 4368b(h)) is amended by striking "and 1994" and inserting ", 1994, 1995, 1996, 1997, and 1998".

SEC. 2. REPORT TO CONGRESS.

The Indian Environmental General Assistance Program Act of 1992 (42 U.S.C. 4368b) is amended by adding at the end the following:

"(1) REPORT TO CONGRESS.—The Administrator shall transmit an annual report to the appropriate Committees of the Congress with jurisdiction over the applicable environmental laws and Indian tribes describing which Indian tribes or intertribal consortia have been granted approval by the Administrator pursuant to law to enforce certain environmental laws and the effectiveness of any such enforcement.".

SEC. 3. MISCELLANEOUS.

(a) GENERAL ASSISTANCE PROGRAM.—Subsection (d)(1) of the Indian Environmental General Assistance Program Act of 1992 (42 U.S.C. 4368b(d)(1)) is amended by inserting "consistent with other applicable provisions of law providing for enforcement of such laws by Indian tribes" after "programs".

(b) EXPENDITURE OF GENERAL ASSISTANCE.—Subsection (f) of the Indian Environmental General Assistance Program Act of 1992 (42 U.S.C. 4368b(f)) is amended by adding at the end the following: "Such program and general assistance shall be carried out in accordance with the purposes and requirements of applicable provisions of law, including the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).".

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

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

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 654, the Senate bill now under consideration.

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

There was no objection.

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

Mr. Speaker, at the behest of the gentleman from New Mexico [Mr. RICHARDSON], chairman of the Subcommittee on Native American Affairs, and also a member of the Committee on Natural Resources, I am pleased to present this bill to the House.

This bill extends the authorization for the Indian Environmental General Assistance Program through the year 1998. I want to commend Chairman RICHARDSON for the work he and the subcommittee have completed on this important measure. It is important law which first was passed in the 102d Congress, and as I have indicated, it is due to expire in this Congress.

The measure before us would continue the multimedia grants to Indian tribes so that the tribes will have the flexibility to assess tribal environmental priorities and allocate their limited funds accordingly.

There are a growing number of environmental problems, and yet there is an overwhelming lack of information on the environmental problems on native American lands. Indian tribes must address a wide variety of problems such as contamination of groundwater, leaking underground storage tanks, untreated uranium mill tailings, and the illegal dumping of hazardous waste on tribal lands.

In most cases, Indian tribes rely on a single environmental protection office to address this wide range of environmental problems. Funds for these efforts must be flexible to address individual environmental priorities for each native American group.

In past years, the EPA funded the so-called multimedia environmental protection programs on several Indian reservations on a demonstration basis. In each case, these tribal programs have met with significant success. Indian tribes have strongly supported the development of such a grant program as a very effective means to providing a flexible source of funds for environmental protection.

Under this program, the Indian Environmental General Assistance Program allows native American groups to plan and develop a reservation-specific approach to environmental protection. This program has enabled Indian tribes to conduct studies to determine environmental impacts on reservations and to monitor adverse environmental impacts to water, air, and the tribal lands themselves. With these funds, Indian tribes have been able to build programmatic and regulatory capacities to address a growing number of environmental concerns. Our chairman has worked closely with the chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL] to ensure that the legislation conforms to existing environmental provisions and laws.

I of course want to commend the gentleman from New Mexico [Mr. RICHARDSON] for the work he has done on the Committee on Natural Resources. He also serves on the Committee on Energy and Commerce, which has obviously facilitated his work on this very important measure that is before the body, and I urge its support.

I include for the RECORD a letter from the chairman of the Committee on Natural Resources to the chairman of the Committee on Energy and Commerce concerning this legislation:

COMMITTEE ON NATURAL RESOURCES,
Washington, DC, November 4, 1993.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to our conversation, I am writing to express my understandings regarding S. 654, which amends the Indian Environmental General Assistance Program Act of 1992. It is my understanding that the Committee on Energy and Commerce, without waiving its jurisdictional prerogatives with regard to the legislation, agrees to the following amendments:

(1) Subsection (h) of the Indian Environmental General Assistance Program Act of 1992 is amended by striking "and 1994" and inserting ", 1994, 1995, 1996, 1997, and 1998".

(2) The Indian Environmental General Assistance Program Act of 1992 is amended by adding at the end the following:

"(1) REPORT TO CONGRESS.—The Administration shall transmit an annual report to the appropriate Committees of the Congress with jurisdiction over the applicable environmental laws and Indian tribes describing which Indian tribes or intertribal consortia have been granted approval by the Administrator pursuant to law to enforce certain environmental laws and effectiveness of any such enforcement.".

(3) Subsection (d)(1) of the Indian Environmental General Assistance Program Act of 1992 is amended by inserting "consistent with other applicable provisions of law providing for enforcement of such laws by Indian tribes" after "programs".

(4) Subsection (f) of the Indian General Assistance Program Act of 1992 is amended by adding at the end the following: "Such programs and general assistance shall be carried out in accordance with the purposes and requirements of applicable provisions of law, including the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).".

The Committee on Natural Resources is in agreement with these amendments of S. 654, to amend the Indian Environmental General Assistance Program Act of 1992. Please contact me if this comports with your understanding of our agreement. I look forward to working with you to ensure this important legislation receives prompt consideration by the House of Representatives and agree that

if a Conference is required, that your Committee will be entitled representation.

Sincerely,

GEORGE MILLER,
Chairman.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of S. 654, the Indian Environmental General Assistance Program Act Reauthorization, as amended.

The gentleman from Minnesota has adequately explained the bill's provisions, so I will simply urge my colleagues to support passage.

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

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

Mr. Speaker, I hope the letter I have submitted will be helpful in terms of the understanding between the Committee on Natural Resources and the Committee on Energy and Commerce on this matter. Again I commend the gentleman from New Mexico [Mr. RICHARDSON] and others who have worked so hard on this measure.

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

Mr. RICHARDSON. Mr. Speaker, I rise in strong support of S. 654, to reauthorize the Indian Environmental General Assistance Program. As chairman of the Subcommittee on Native American Affairs, I have heard testimony from Indian tribes regarding the wide range of environmental problems facing Indian country. Our subcommittee has held several hearings on environmental problems ranging from leaking and abandoned underground storage tanks to abandoned uranium mill tailings on Indian lands. What has been most apparent throughout these hearings is the need to establish an environmental presence on each Indian reservation and to effectively coordinate Federal environmental responsibilities on Indian lands.

This bill would increase the environmental presence on Indian lands through the continued development of tribal environmental programs. It provides assistance to Indian tribes so that they may tailor their environmental programs to meet their unique circumstances. It will enable Indian tribes to develop environmental priorities so that scarce tribal resources may be effectively allocated to address competing environmental concerns. Under this program, Indian tribes will plan and develop a reservation specific approach to environmental protection. This program will enable Indian tribes to conduct studies to determine environmental impacts on the reservation and to monitor adverse environmental impacts to water, air, and tribal lands. This program provides Indian tribes with the flexibility to develop environmental protection programs across a wide range of environmental media areas. Through the development of a tribal multimedia program, Indian tribes will be in a better position to coordinate environmental responses to reservation problems that may concern several different EPA programs such as water quality standards and leaking underground storage tanks.

For several years, the EPA has funded multimedia environmental protection programs on Indian reservations on a demonstration basis. The Bad River Tribe in Wisconsin and the Wind River Tribe of Wyoming have operated multimedia programs for several years. In both cases, these tribal programs have met with a great deal of success. Indian tribes across the country have noted this success and support the development multimedia grant programs for their reservations.

I would like to thank the chairman of the Energy and Commerce Committee for his hard work on this measure. Our committees have worked closely to ensure that this legislation conforms to existing environmental statutes. There is strong support across Indian country for this measure. I urge my colleagues to support this very important legislation which has bipartisan support.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 654, as amended.

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

A motion to reconsider was laid on the table.

INDEPENDENT SAFETY BOARD ACT AMENDMENTS OF 1993

Mr. OBERSTAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2440) to amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1994, 1995, and 1996, and for other purposes.

The Clerk read as follows:

H.R. 2440

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 "Independent Safety Board Act Amendments of 1993".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 309(a) of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1907(a)) is amended by adding at the end the following new sentence: "There are authorized to be appropriated for the purposes of this Act not to exceed $37,580,000 for the fiscal year ending September 30, 1994, $44,000,000 for the fiscal year ending September 30, 1995, and $45,100,000 for the fiscal year ending September 30, 1996; such sums to remain available until expended.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. OBERSTAR] will be recognized for 20 minutes, and the gentleman from Florida [Mr. MICA] will be recognized for 20 minutes.

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

Mr. OBERSTAR. Mr. Speaker, I yield 10 minutes to the gentleman from Washington [Mr. SWIFT], chairman of the Subcommittee on Transportation and Hazardous Materials of the Committee on Energy and Commerce, and I ask unanimous consent that he be allowed to control that time.

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

There was no objection.

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

Mr. Speaker, I rise in strong support of H.R. 2440, the Independent Safety Board Act Amendments of 1993.

This bill, which I introduced together with my colleague, the gentleman from Pennsylvania [Mr. CLINGER], the ranking member of the Subcommittee on Aviation, simply reauthorizes appropriations for the National Transportation Safety Board for the 3 years through fiscal year 1996. Funding levels in the bill are $37,58 million for fiscal year 1994, $44 million for fiscal year 1995, and $45.1 million for fiscal year 1996.

The funding levels for fiscal years 1995 and 1996 are consistent with those requested by the NTSB. However, the funding level for fiscal year 1994 is $455,000 morethan the President requested.

The additional funding, in the judgment of the subcommittee and the full Committee on Public Works and Transportation, would permit the NTSB to retain its current staff rather than take a staff reduction of nine positions, which would have been necessary if the requested funding level had not been authorized. I want to point out that in the course of hearing on this matter the NTSB, we learned, originally requested a higher funding level, but the Office of Management and Budget refused to endorse that request in support of the President's call for a reduction of Federal positions. And while I generally agree with the administration about the need to shrink the size of Government, this is an area that we must not shrink or compromise. Safety is critical. Every person who gets on an airplane, gets on a train, or is involved in trucking wants to know that their driving, flying, and riding conditions are going to be safe.

The NTSB is the Nation's watchdog on aviation safety, and I want to be sure that it is fully staffed to carry out its very heavy responsibilities. The National Transportation Safety Board is the Nation's central and critical functional agency for transportation safety.

□ 1330

It is held in enormous respect both at home and abroad. Our neighbors to the north, the Canadians, have patterned their safety board after ours. The NTSB is involved around the world wherever there are American-built aircraft or American airlines operating aircraft overseas which have an accident. The safety board is there, they are looked to with great respect by their colleagues in other countries.

They have developed an unparalleled professionalism for their investigations and the unbiased nature of their findings, recommendations, and conclusions.

It is rare in the Federal Government for interested parties to be universally satisfied with the work of an investigative agency. No agency likes to have its work critiqued or criticized. But the NTSB has developed such a stature that during our reauthorization process not a single industry organization, labor group, or Federal agency had enough concern about the NTSB work to send a single witness to testify in opposition to, or express concern about, the NTSB.

I think that is an extraordinary record of accomplishment, especially to come to this point of a reauthorization without industry criticism.

I think it is vitally important that congressional action assure the NTSB of the funding levels it needs to maintain the personnel, maintain the staffing competence and professionalism, to avoid any question, any hint of deterioration in the quality of their work product. Clearly it is not cost effective to reduce funding for an agency whose recommendations, whose central mission is and has been to save lives.

The funding levels we have requested are necessary, they are not excessive, they maintain the current staffing status, and I urge support of the legislation.

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

Mr. MICA. Mr. Speaker, I ask unanimous consent to yield 10 minutes to the gentleman from Ohio [Mr. OXLEY] and pending that, I yield myself such time as I may consume.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida [Mr. MICA] has yielded 10 minutes of his time to be controlled by the gentleman from Ohio [Mr. OXLEY].

The Chair recognizes the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, first of all I want to take a moment and comment that the gentleman from Pennsylvania, [Mr. SHUSTER] ranking member of the Committee on Public Works and Transportation, is not able to be here, nor is the gentleman from Pennsylvania [Mr. CLINGER] who is tied up with another obligation at this particular moment.

Mr. Speaker, I am pleased to speak and to rise in favor of H.R. 2440, which is the National Transportation Safety Board reauthorization.

I would also be remiss if I did not take a moment to first of all compliment the chairman of the Subcommittee on Aviation of the Committee on Public Works and Transportation, the gentleman from Minnesota [Mr. OBERSTAR] with whom I have enjoyed working. I want to commend him for his diligence, his efforts, his tireless energy on behalf of aviation and on behalf of transportation generally in our country.

I think that if the Congress worked in the fashion in which our committee worked, and in which its subcommittees work, transportation, public works and aviation, if every one of these committees worked in such a congenial bipartisan fashion, the products of this Congress and the Congress and the country would be in much better shape.

But this is a fairly noncontroversial matter, though an important matter, the transportation safety of our country.

As we know, the NTSB is guardian of our national transportation safety. It is an independent agency whose effectiveness is dependent on timely accident reports and safety recommendations. To accomplish that, they need the support of this Congress and of our committee, and we are doing that here today.

So I am pleased, being a fiscal conservative, also that the constraints that have been placed on this board, even though the NTSB requested $42.2 million for 1994, that we are coming in well below that in this authorization at $37.58 million, which is again another example of how this Congress should work and can work in a bipartisan effort.

So, with that, again I rise in favor of this reauthorization.

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

The SPEAKER pro tempore. The Chair recognizes the gentleman from Washington [Mr. SWIFT].

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

Mr. Speaker, I am very pleased to support the reauthorization of the National Transportation Safety Board. The Board is an independent agency that comes under the joint oversight of the Committee on Public Works and Transportation and the Committee on Energy and Commerce.

This legislation was passed, unamended, on a voice vote, by the Committee on Energy and Commerce in October of this year. We passed the bill exactly as it came out of the Committee on Public Works and Transportation.

The mandate of the Safety Board is to investigate transportation accidents, including those involved in railroads. The Board must determine probable cause and make recommendations designed to prevent such accidents from recurring.

Since its inception 26 years ago, the Board has undertaken over 50,000 accident investigations and has issued more than 9,000 safety recommendations covering a wide range of transportation safety issues.

The Subcommittee on Transportation and Hazardous Materials of the Committee on Energy and Commerce, which I have the honor to chair, has oversight responsibility for the Safety Board's investigations and recommendations of rail accidents. The Safety Board has also undertaken a number of rail-related special studies, including studies on tank car and locomotive fuel tank integrity, collision avoidance and work/rest cycles on train crews. The Safety Board is held in high esteem by those who know of its work, and the bill before us insures that that work will not be impaired.

I urge Members to pass this bill, H.R. 2440.

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

The SPEAKER pro tempore. The Chair recognizes the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. I yield myself such time as I may consume.

Mr. Speaker, I want to commend our subcommittee chairman, the gentleman from Washington, for his very diligent and constructive efforts to enact this reauthorization of the National Transportation Safety Board. I also want to recognize the efforts of our committee chairman, the gentleman from Michigan, and our ranking committee member, the gentleman from California, as well as the efforts of the leadership of the Public Works Committee, with whom we share jurisdiction over the National Transportation Safety Board.

The NTSB performs an important safety function: It is capable of conducting an expert investigation of virtually any type of transportation accident. After such an investigation, the agency can then make recommendations aimed at avoiding similar accidents in the future. Because NTSB is not an enforcement or regulatory agency, it often can call the shots as it sees them, without some of the inhibitions that might apply within the Department of Transportation.

I strongly support this bipartisan reauthorization bill and urge its prompt approval by the House.

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

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

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

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

Mr. Speaker, in conclusion, I would like to express my great appreciation to the gentleman from Florida [Mr. MICA] for his very thoughtful remarks. I think the distinguishing characteristic of our subcommittee is that we do work on a bipartisan basis and an openness among members and staff. The

gentleman has rightly characterized our work product as being excellent and reflects that spirit of cooperation. I greatly appreciate the gentleman's thoughtful remarks.

Mr. MOORHEAD. Mr. Speaker, I want to commend our committee chairman, Mr. DINGELL, our subcommittee chairman, Mr. SWIFT, and the subcommittee's ranking member, Mr. OXLEY for their Bipartisan effort to reauthorize the very important activities of the National Transportation Safety Board. Until recently, the NTSB was identified in the public's eye almost exclusively with aircraft accident investigations. However, in the wake of the unfortunate Amtrak accident in September near Mobile, Al I believe many more Americans now realize that the NTSB's safety investigations cover virtually every form of transportation. This is a highly respected and expert Agency, and as such deserves to be reauthorized as provided in this bill. I strongly support this bipartisan reauthorization bill and urge its prompt approval by the House.

Mr. MINETA. Mr. Speaker, I rise in strong support of H.R. 2440, the Independent Safety Board Act Amendments of 1993. This bill, which reauthorizes appropriations for the National Transportation Safety Board for fiscal years 1994–96, has full bipartisan support and is completely noncontroversial.

The National Transportation Safety Board is unique within the Federal Government. The importance of its safety mandate transcends politics. The highly skilled NTSB work force investigates accidents to determine the probable cause in five transportation modes: aviation, highways, rail, pipeline, and marine. The safety recommendations made by the Board directly translate into lives saved. Every person in this room and in this country has benefited from the fine work done by the Board. It is a tribute to the reputation of the Board that more than 80 percent of its recommendations are accepted voluntarily.

This bill would enable the Board to continue its vital work at current staff levels. It is important that we ensure that fair funding levels are established in order to prevent any deterioration in the invaluable services provided by the National Transportation Safety Board. This bill establishes fair funding levels that have received bipartisan support in both the Committee on Public Works and Transportation, and the Committee on Energy and Commerce.

I urge my colleagues to support this important legislation.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. OBERSTAR] that the House suspend the rules and pass the bill, H.R. 2440.

The question was taken.

Mr. BUNNING. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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

□ 1340

PROVIDING FOR CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 170, REMOVAL OF U.S. ARMED FORCES FROM SOMALIA

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 293 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 293

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the concurrent resolution (H. Con. Res. 170) directing the President pursuant to section 5(c) of the War Powers Resolution to remove United States Armed Forces from Somalia by January 31, 1994. The amendment in the nature of a substitute recommended by the Committee on Foreign Affairs now printed in the concurrent resolution shall be considered as adopted. The previous question shall be considered as ordered on the concurrent resolution, as so amended, to final adoption without intervening motion except: (1) the further amendment in the nature of a substitute printed in part 1 of the report of the Committee on Rules accompanying this resolution; (2) the further amendment in the nature of a substitute printed in part 2 of the report of the Committee on Rules accompanying this resolution; and (3) one motion to recommit. Each of the amendments printed in the report of the Committee on Rules may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, and shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent. All points of order against the amendments printed in the report are waived. If more than one of the amendments printed in the report is adopted, only the last to be adopted shall be considered as finally adopted.

SEC. 2. The provisions of section 7 of the War Powers Resolution (50 U.S.C. 1546) shall not apply during the remainder of the first session of the One Hundred Third Congress to a concurrent resolution introduced pursuant to section 5 of the War Powers Resolution (50 U.S.C. 1544) with respect to Somalia.

The SPEAKER pro tempore. (Mr. MAZZOLI). The gentleman from Ohio [Mr. HALL] is recognized for 1 hour.

Mr. HALL of Ohio. Mr. Speaker, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], for purposes of debate only, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 293 is a rule providing for the consideration of House Concurrent Resolution 170, the resolution directing the President to remove United States troops from Somalia, and amendments thereto in the House. Mr. Speaker, I want to point out at this time there is a small drafting error in the rule. The committee intended to provide 1 hour of general debate. The rule, however, orders the previous question to final adoption without providing for general debate.

At this time, Mr. Speaker, after consultation with the minority on the Rules Committee and the Foreign Affairs Committee, I ask unanimous consent that when House Concurrent Resolution 170, as amended, is called up for consideration pursuant to House Resolution 293, it will be debatable for 1 hour equally divided and controlled by the chairman and ranking minority member of the Foreign Affairs Committee.

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

There was no objection.

Mr. HALL of Ohio. Mr. Speaker, the rule provides that the Foreign Affairs Committee amendment in the nature of a substitute shall be considered as adopted. Under the rule, only two substitute amendments printed in the report to accompany the rule shall be in order. These amendmentsmay be offered by Mr. GILMAN or his designee, and Mr. HAMILTON or his designee, and shall be considered in the order and manner specified. As specified in the report, each amendment shall be debated for up to 30 minutes, equally divided and controlled by the proponent of the amendment and an opponent. The Gilman and Hamilton amendments shall be considered as read, not subject to amendment, and all points of order against them are waived.

If more than one of the two amendments made in order is adopted, only the last amendment to be adopted shall be considered as finally adopted. This is in keeping with the agreed upon king-of-the-hill procedure. The rule also provides that the provisions of section 7 of the War Powers Act shall not apply during the remainder of the first session of the 103d Congress to a concurrent resolution introduced pursuant to section 5 of the War Powers Resolution with respect to Somalia. Mr. Speaker, this is necessary to allow the House to make the best use of its very limited time before the end of the current session of Congress. Finally, the rule provides one motion to recommit.

Mr. Speaker, House Concurrent Resolution 170 as reported by the House Foreign Affairs Committee directs the President to remove the United States Armed Forces from Somalia by March 31, 1994. The recent death of Somalis and U.N. forces, including United States military servicemen, has generated controversy over the Somalia operation. The Foreign Affairs Committee action is in keeping with the requirements of the War Powers Act that pertain to the use of U.S. Armed Forces engaged in hostilities overseas. This resolution will afford us the opportunity to discuss and debate our actions with respect to Somalia as well as our overall policy objectives concerning United States troops abroad. The people of our country, including the families of servicemen and women

stationed in Somalia, deserve to know when and under what conditions our troops will return from their original humanitarian mission.

The carefully crafted rule before us received bipartisan support on the Rules Committee and passed unanimously in a voice vote. I urge my colleagues to support it.

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

Mr. Speaker, I rise to join my friend, the gentleman from Ohio, in urging all Members to support this rule.

This is one of those rare occasions when I ask the Members to support a rule which is less than open.

But I can do so today because this rule meets the two criteria that are necessary to gain Republican support.

First, this rule is the product of genuine negotiations between the majority and minority leadership.

A great deal of effort went into finding a format that would be fair to all sides concerned.

I believe this rule does provide for a balanced debate, and the leadership of both parties have agreed to it.

Second, this rule does not freeze out Republicans.

One Republican-sponsored amendment is made in order and one Democrat-sponsored amendment is made in order.

Each side is given one shot, and the difference between the two is clearly drawn.

For these reasons, then, I urge support for the rule.

Mr. Speaker, I need not reiterate the entire explanation of the rule given to us by the gentleman from Ohio, I would simply say that the issue before us boils down to a clear-cut choice:

Should the House adopt the Gilman amendment, which would bring United States troops out of Somalia by January 31, 1994?

Or should the House adopt the Hamilton amendment, which adheres to the President's deadline and would bring the troops home 2 months later than that, by March 31, 1994?

For my own part, I strongly support the Gilman amendment—indeed, I would like to bring the troops home even sooner, and I know there are a lot of Members of this House who feel the same way I do.

I do not believe any purpose is being served by keeping our troops in Somalia for a single further day. The time to begin an orderly withdrawal is right now, today.

Mr. Speaker, I must also say that the gentleman from New York [Mr. GILMAN] deserves special commendation from the House for his tenacious efforts in keeping this issue on the front burner, as does the gentleman from Florida [Mr. MICA].

The Senate has devoted more than 3 full legislative days to debating the questions related to United States involvement in Somalia and our participation in United Nations peacekeeping missions.

So far, the majority leadership of the House has denied the Members of this body from engaging in a similar comprehensive debate.

And we would not be here today were if not for the persistence of the gentleman from New York [Mr. GILMAN], who even had to go so far as to invoke the Wars Powers Resolution in order to bring this issue to the floor here today. So he really deserves our thanks.

Mr. Speaker, I myself might be more flexible in supporting the timetable the administration proposed for getting our troops out of Somalia if I could be convinced that the administration has a coherent foreign policy, but I am not so convinced.

I served for years on the Foreign Affairs Committee, and Mr. Speaker, I have never seen such a situation as we have today. I know I speak for many Members on both sides of the aisle when I say that the Clinton administration's commitment to so-called peacekeeping as the centerpiece of its foreign policy has not been thought through.

□ 1350

It is, in fact, threatening to distort and derail any kind of realistic and bipartisan consensus that might be reached concerning America's strategic interests and role in today's world.

Members may recall that when the first rule for the Defense authorization bill was considered here on the floor more than 3 months ago—early in August—many Republicans took to the well to criticize the majority leadership for not allowing a debate and appropriate amendments on the subject of peacekeeping.

Those calls for debate were renewed by Republicans and concerned Democrats throughout the month of September, when the Somalia operation looked to be going seriously wrong and even spinning out of control.

Finally, on October 3, 18 more Americans were killed, and more than 70 were wounded in an ambush in the streets of Mogadishu.

The worst fears that many of us had were confirmed several days later in the most disastrous and chaotic briefing I have ever attended in 15 years as a Member of Congress.

Secretary of State Christopher and Secretary of Defense Aspin could neither explain, defend, nor even confirm the existence of a coherent peacekeeping policy in Somalia.

We have watched the U.N.-led mission in Somalia apparently evolve from humanitarian relief to law enforcement.

Then it became nation building.

Then it became taking sides in a civil war situation and going after the bad guys.

When all of that failed, it was back to the barracks.

Now, evidently, it has gone back to law enforcement, and American troops are once again pounding the beat on the streets of Mogadishu where they have no business being.

Mr. Speaker, I have said it before and I will say it again: This is madness!—This is mindless folly!

Maybe this would not be so dangerous if America did not have other overseas commitments.

But the fact of the matter is we do. Read today's headlines about 70 percent of the North Korean Communist forces being deployed on the 38th parallel right now, today.

And I know something else, too: At a time when Defense budgets are declining sharply, we cannot maintain a policy of indiscriminate support for "peacekeeping" operations, in areas of peripheral importance to the United States, without harming our readiness to defend our real interests elsewhere, such as in South Korea.

During the debate this year on both the authorization and appropriation bills for national defense, both of which should be back on this floor later this week as conference reports—Members from the majority side of the aisle, from the Democrat side, subcommittee chairmen, very respected Members like the gentleman from Missouri [Mr. SKELTON], warned that we are running the risk of hollowing out our active-duty forces—just as we did in the late-1970's—if this Government does not establish some realistic priorities.

This is all the more a critical point because the Clinton administration's projected levels of Defense spending over the next 4 years come in well below what their own "bottom-up" review defines as the minimum amount necessary to protect the security, the national interests of the United States of America.

Mr. Speaker, our Nation has real interests and real commitments in Europe, the Middle East, the Western Hemisphere, and the Pacific rim.

It is time to get out of this side show in Somalia once and for all.

America should not have a policy of intervening in local disputes—be they issues of minority rights, local autonomy, or anything else—unless there is an explicit and undeniable threat to another sovereign nation with whom we are allied. American foreign policy under all Presidents, be they Republicans or Democrats, has been to defend the sovereignty and the boundaries of allied nations against outside aggression, not to become embroiled in civil wars.

Mr. Speaker, I am gratified that a debate on these important subjects is being provided by the resolution this rule makes in order. I urge adoption of the rule. I am going to vote for it, and I urge support for the amendment

being offered by the gentleman from New York [Mr. GILMAN]. If that fails, Mr. Speaker, I think this body is going to have to answer for itself in a very unpleasant fashion somewhere down the road.

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

Mr. HALL of Ohio. Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I would say to the gentleman that we have several speakers, and, if the gentleman does not intend to use his time, I yield 4 minutes to the gentleman from Florida [Mr. GOSS], a very valuable member of our Committee on Rules.

Mr. GOSS. Mr. Speaker, I thank the gentleman from New York for yielding this time to me.

Normally I would be fighting this type of restricted rule—because debate on the floor of this House should be as free and open as possible to allow all Members a chance to improve the legislative product, especially when we are dealing with having our troops in harm's way. But today, through bipartisan agreement, we bring forward a resolution on Somalia under a restrictive rule—which I will support for pragmatic reasons because it is important that we deal with this debate in a timely way.

In recent months, Somalia has become a household word. Vivid images—first of starving Somalis and later of American casualties after a bungled U.N. military mission—have raised serious questions about the purpose of ourmission and the appropriateness of our national response to this crisis.

At this point, Mr. Speaker, most Americans know that it is time for American troops to withdraw from Somalia as soon and as quickly as possible. Today's debate then will be focused on when that is possible. Many Members, including this one, believe that we should be able to extricate ourselves from Somalia within the next weeks—and certainly by the end of January.

Today Members will have the option to vote for the January 31 withdrawal—or to accede to the President's request for a delay until the 31st of March. Given the difficulty this administration has had with formulating and carrying out effective and responsible policy in Somalia and in absence of other compelling reasons—I simply cannot accept the later date. We have had too many American casualties in Somalia already—it is unconscionable that we would keep our young men and women in harm's way one day longer than absolutely necessary.

I simply do not agree with the argument of the distinguished chairman of the Foreign Affairs Committee that the extra 2 months are needed to allow other countries to assume full responsibility for security in Somalia. In light of recent events that argument rings hollow for me, half of the Foreign Affairs Committee and a great many Americans. True, we need a clear understanding of what our remaining interests are in Somalia and how much manpower is necessary to provide for them. Embassy security, the safety of Americancitizens and relief workers does not, in my view, justify large-scale commitment of U.S. combat troops.

Mr. Speaker, the United States mission in Somalia has been a moving target—evolving far beyond the bounds of a reasonable humanitarian effort, through an obsessive manhunt phase, a nebulous nation-building expedition, and now idling in a face-saving program.

The Clinton administration must review what went wrong in Somalia, challenge its decisionmaking, and explain to the American people and the families forever scarred by this tragedy why lives had to be lost and why young Americans must continue to serve in such a dangerous and volatile situation. Then it must accept accountability for its mistakes and reassure us that such a terrible blunder will never happen again.

The Clinton administration has proven it can turn a deaf ear to the wishes of the American people—witness the tax-and-spend budget plan forced on this country despite massive popular opposition. But I implore the President to hear the message Americans are sending about Somalia—that it is time to get out now, that saving face is not a good enough reason to remain involved in the Somalia quagmire.

I urge support of the Gilman resolution—let us raise the decibel level on that message in the hopes that eventually the President will hear the people he was elected to serve.

Mr. SOLOMON. Mr. Speaker, I certainly agree with the gentleman from Florida [Mr. GOSS], and now we have another gentleman from Florida—this seems to be Florida day here—who has really led the fight, along with the gentleman from New York [Mr. GILMAN], in trying to bring this issue to the floor of this House, and I commend him for it.

Mr. Speaker, I yield 5 minutes to the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, I rise with a little bit of bitterness and a little bit of sadness this afternoon. I am going to speak against this rule.

This rule is too late. This rule is too late for the dozens of American servicemen who have already given their lives, tragically lost without reason, without a sound U.S. policy. This rule and this debate are also too late for the American taxpayer. They were told by the previous administration that we would be in Somalia in December and out in January, and now we have spent billions of taxpayer dollars in a charade. This debate and this rule are too late because we had an opportunity, we had an opportunity many months ago, as the gentleman from New York [Mr. SOLOMON] pointed out; before the Committee on Rules in defense authorization we had that opportunity, and in the Defense appropriation we had that opportunity.

□ 1400

We were supposed to be out of Somalia in January. We were not out of Somalia in January. January went, February went, March went, April went, and then we heard the excuses.

We were appalled by the amount of American taxpayer dollars being poured into this folly. Where were the conservatives? Where were the liberals, the people who were concerned about American cities, Americans who go without education, who go homeless on the street, Americans who are struggling to pay their taxes and exist as loyal Americans? Their money was being poured down the drain, and no one would listen.

When I introduced legislation to withdraw our troops, no one would listen, and when I begged the Rules Committee time and time again to allow an amendment on this floor, that is when we should have had the debate, before we saw the headlines, before we heard the newscasts on our nightly news. When our American youths went in there to save children and our American youths were being killed, then they all rushed to this floor.

What is sad is that the debate now is whether we will take our troops out in January or March. That is not the real question here. The question is that we made a mistake. This administration tried to save face, and this Congress went along with the deal. That deal is not good, and the deal before us today, whether it was cut in a bipartisan fashion, is not good. The rule is too late; the debate is too late. We have lost American lives, we have lost the confidence of the American people, and we have cost the American taxpayer.

So that is why it is with reluctance, sadness, and bitterness that I rise on the floor of the House this afternoon and urge my colleagues to speak and vote against this rule.

Mr. Speaker, this rule is too late, and this debate is too late.

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

Mr. Speaker, I would just begin to sum up by commending the gentleman from Florida [Mr. MICA] for his comments.

If we were to bring our troops home by January 1994, we would probably save the taxpayers of this Nation about $500 million. That is a half-billion dollars.

I recall just a month or so ago speaking to the North Atlantic Assembly, the political arm of NATO. We were debating just exactly what the policy

should be for NATO as it concerned Bosnia. And at that time, Mr. Speaker, our own NATO allies were urging the United States of America to participate in going into such places as Rwanda, Somalia, southern Iraq, Angola, Cambodia, El Salvador, Western Sahara, Yugoslavia, Bosnia—the list goes on and on and on.

Mr. Speaker, at that time I recalled to the North Atlantic Assembly that the North Atlantic Treaty Organization was formed for the specific purpose of protecting the boundaries of nations and not trying to interfere in internal disputes. That is exactly what we are doing now in Somalia by going beyond the humanitarian relief efforts which were completed, as the gentleman from Florida [Mr. MICA] said, back in January of this year, 8 or 9 months ago.

We have no business being there in a nation-building objective. That is why we should adopt this rule and we should agree to the amendment the gentleman from New York [Mr. GILMAN] will be offering. We should bring our troops home once and for all.

Mr. Speaker, I submit with my remarks certain printed and tabular material concerning the rules process, as follows:

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted [1]	Open rules		Restrictive rules	
		Number	Percent [2]	Number	Percent [3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.—Continued

Congress (years)	Total rules granted [1]	Open rules		Restrictive rules	
		Number	Percent [2]	Number	Percent [3]
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	43	11	26	32	74

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Nov. 5, 1993.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (d–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1(not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173 May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176.. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 218, July 20, 1993	O	H.R. 2530: BLM authorization, fiscal year 1994–95	NA	NA	
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

Mr. GILMAN. Mr. Speaker, I am pleased to associate myself with the remarks of Mr. SOLOMON, the distinguished ranking Republican member of the Rules Committee, in support of the rule to enable debate on House Concurrent Resolution 170, calling for withdrawal of United States Forces from Somalia by January 31.

The debate that this rule will make in order is long overdue. It is time for the House of Representatives to reassert itself in the formulation of United States policy in Somalia. I'm certain that many Members have shared my frustration as we sat on the sidelines over the last several months, while the administration and the other body negotiated the terms of United States involvement in Somalia.

It was in order to allow the House to have a meaningful debate on this important issue that, along with the distinguished ranking Republican member of the Committee on Armed Service, the Gentleman from South Carolina [Mr. SPENCE] I introduced House Concurrent Resolution 170.

Our resolution is a concurrent resolution pursuant to section 5(c) of the War Powers Resolution. As originally introduced, House Concurrent Resolution 170 directed the President to withdraw United States Armed Forces from Somalia by January 31, 1994. In marking up the resolution, the Committee on Foreign Affairs decided by a one-vote margin to substitute March 31, 1994, for the date we originally proposed. I am pleased that this rule makes in order a substitute amendment I will offer tomorrow to restore the January 31 date.

So far as I am aware, there is general agreement regarding the legal effect of our resolution. A 1983 Supreme Court decision makes clear that section 5(c) of the War Powers Resolution cannot require the President to withdraw U.S. forces from a foreign country upon adoption of a concurrent resolution like House Concurrent Resolution 170. This means that, if we pass this concurrent resolution, the effect will be the same as the effect of passing any other concurrent resolution—it

will express the opinion of the Congress, but have no binding legal effect on the President.

I would prefer for us to debate and vote on a measure that would have binding legal effect. in fact, Mr. SPENCE and I introduced such a measure, H.R. 3292, that was essentially the same as the Byrd amendment to the fiscal year 1994 Defense appropriations bill adopted by the other body last month. The main difference between our bill and the Byrd amendment was that ours moved up the date for withdrawal of U.S. forces from March 31, 1994, to January 31.

It was made clear to us, however, that H.R. 3292 would not be scheduled for action. Our only recourse, therefore, was to offer this nonbinding resolution.

I know that some Members are concerned about tying the President's hands by setting a firm date for withdrawing our U.S. forces and I am very sympathetic to their concern. The Byrd amendment, however, will cut off funds for United States combat troops in Somalia after March 31. The Byrd amendment almost certainly will become law. The other body has passed it, the administration does not object to it, and the House has instructed its conferees to recede to it.

The Byrd amendment is a far more serious restriction on the President's flexibility than House Concurrent Resolution 170, which will not legally bind the President.

Members concerned about tying the President's hands should find it much easier to vote for House Concurrent Resolution 170 than for the Byrd amendment.

Because the Byrd amendment sets a deadline—enforced by a funding cutoff—for the withdrawal of United States forces from Somali, there no longer is any question about whether Congress will set a deadline. The question posed by House Concurrent Resolution 170 is what that deadline should be.

The Byrd amendment sets the deadline at March 31. The substitute amendment I will offer tomorrow sets the deadline 2 months earlier, at January 31.

In deciding which of these dates is preferable, we need to look at what our forces are doing in Somalia. Let me read from a Washington Post article that appeared 1 week ago today:

[T]he nearly completed buildup of American combat forces in Somalia is starting to seem more irrelevant than daring. U.S. combat troops . . . are all but invisible. . . . U.S. military commanders are focusing almost exclusively on one goal: keeping American casualties to a minimum until the planned U.S. withdrawal next March.

Today's Washington Post reports that United States officials are now considering using our forces in Somalia more aggressively, and that Somalia warlord Mohamed Farah Aideed is warning that doing this may lead to another bloody confrontation like the one last month in which 18 Americans were killed and 75 wounded. Today's story goes on to say that the peace process in Somalia is stalled because U.N. officials in Mogadishu are being:

Surprisingly inflexible, refusing, for example, to back away from their public insistence on arresting Aideed without first having a Security Council vote.

Mr. Speaker, I request that both articles be included in the RECORD.

Mr. Speaker, if our forces in Somalia aren't going to do anything except lay low and avoid casualties, we should bring them home. If they are about to get into another confrontation with Somali warlords in hopes of buying leverage in negotiations, that too is misguided, and instead they should be brought home.

The reality is, Mr. Speaker, that the administration surrendered its leverage over the Somali warlords when it announced that United States forces would be withdrawn by March 31 no matter what. It is a dangerous fantasy to believe that prolonging that withdrawal longer than absolutely necessary to complete it will enable our diplomats to negotiate an agreement they can't negotiate today.

Let's not prolong the agony. Let's not become complicit in a policy that may cause unnecessary American casualties between January 31 and March 31. I urge my colleagues to support this rule and my substitute amendment to House Concurrent Resolution 170.

[From the Washington Post, Nov. 1, 1993]

GI'S IN SOMALIA DIG, DUCK, AND COVER

(By John Lancaster)

MOGADISHU. Somalia. Oct. 31.—On the mean streets of this divided capital, the nearly completed buildup of American combat forces in Somalia is starting to seem more irrelevant than daring.

U.S. combat troops—3,600 Army soldiers backed by the same number of Marines on ships nearby—are all but invisible here. They do not patrol city streets or enforce the United Nation's ban on openly carried weapons and militia checkpoints.

Instead, the evolving American military strategy in Somalia might best be described as duck and cover. While gunmen rule the streets outside, American soldiers live in vast, protected enclaves linked by specially constructed bypass roads, avoiding all but occasional contact with the city they were sent to help secure. For now, at least, U.S. military commanders are focusing almost exclusively on one goal: keeping American casualties to a minimum until the planned U.S. withdrawal next March.

"You've got this huge force flying in with nothing to do but protect its perimeters and bases," said one frustrated U.S. officer. "Meanwhile, everything is going to hell in a handbasket on the outside."

There are, of course, good reasons for caution. With the forces of faction leader Mohamed Farah Aideed holding their fire against American and U.N. troops, U.S. commanders want to avoid offensive measures that could foil diplomatic efforts to broker a peace settlement among Aideed and rival clans.

On the other hand, there is no evidence that President Clinton is fulfilling his pledge to "keep open and secure the key roads and lines of communication" in Somalia and "keep the pressure on" armed looters and factional fighters.

Despite the cease-fire, security in Mogadishu as eroded in recent days, with gunmen and militia checkpoints reappearing on city streets amid renewed clashes among rival sub-clans. U.N. and American civilian officials complain privately that they now have more difficulty moving around the city than during four months of sporadic combat with Aideed's forces after the United Nations ordered the militia leader's arrest. In addition, they say, factional tensions and extortion threats are once more interfering with relief operations here.

"Checkpoints, gunmen running around town—that's got to stop," said a U.S. government official here who asked not to be named. "The city throughout the war with Aideed was functioning better than it is now. Now, you can't get across town."

The official added: "We keep building wider bypasses instead of dealing with whatever the problem is that's forcing us to build wider bypasses. It's the classic military conundrum. Are you more secure improving your fortifications or going out more aggressively and patrolling?"

The deteriorating security situation—and the absence of any U.S. military response—prompted a cable from the American diplomatic mission here to the State Department late last week expressing concern that U.S. forces have "totally pulled back," according to a U.S. official familiar with its contents.

U.S. military officers too are frustrated by what they describe as an absence of clear guidance from Washington. They are hoping to receive such guidance this week from Clinton's special envoy to Somalia, Robert B. Oakley, who arrives here Monday in a bid to jump-start stalled political negotiations among rival clans. Oakley met last week with members of the military's Joint Staff to try to clarify the U.S. military mission, a U.S. official said.

"I'd call it 'Waiting for Oakley,'" said a U.S. official here of the posture of American forces. "I do not think that in the end events will allow us to carry out the policy as it exists right now and achieve the desired results. There will have to be choices made."

At present, the diplomatic process is stalled, with Aideed refusing to send delegates to U.N.-sponsored political talks. U.S. officials say Oakley has little chance of breaking the deadlock so long as Aideed believes he has nothing to fear from the expanded U.S. military presence here. "I suspect [Oakley] is going to give them [U.S. forces] a little more room to maneuver," as U.S. official said. "Something needs to be done."

For now, soldiers devote most of their professional energies to self-preservation—stringing barbed wire, filling sandbags and plotting defensive artillery coordinates in keeping with the "force protection" mission that U.S. commanders say is their number-one priority. Even the formidable U.S. armored contingent—30 M-1A1 tanks, 48 Bradley Fighting Vehicles and eight self-propelled howitzers—will for now be parked at a remote base being bulldozed out of an old surface-to-air missile site several miles outside the city.

The U.S. decision to dig in rather than move out also has affected the posture of multinational U.N. peacekeeping troops. These troops were supposed to serve as the front-line enforcers of security in Mogadishu, with the American soldiers standing by for emergencies. But the arrival of the American reinforcements has done little to boost the confidence of their U.N. partners, who remain largely confined to 11 U.N. strongholds around the city.

In keeping with their non-confrontational approach, American and U.N. military commanders sought to negotiate with representatives of Aideed's political organization, the Somali National Alliance, after members of his militia began brandishing weapons in full view of several Pakistani strong-points last week. But when they convened a meeting Saturday of a newly formed "security advisory committee" purported to include each of the city's 15 factions and clan groups, only four representatives showed up, none from Aideed's faction.

Later in the day, American helicopters dropped leaflets over the city explaining

once again the U.N. rules against the open display of weapons. But the message seemed to have eluded a jeering mob of armed Somalis who showed up today outside the hotel in Mogadishu where most foreign journalists stay after members of a rival faction held a news conference there. The latter escaped by car after firing a warning shot in the air.

American helicopter pilots who fly reconnaissance patrols over the city still report occasional gunfire in their direction, but they too are exercising extreme restraint. During a battle between Somali factions last Monday, the pilot of a U.S. helicopter spotted through his targeting camera the Somali who had just tried unsuccessfully to kill him with a rocket-propelled grenade, according to a senior officer. But the pilot elected not to return fire.

The American retreat from the streets has been accompanied by a rise in thuggery and factional violence, which once more has begun to interfere with humanitarian relief work here. Last week, the port was virtually shut down for three days after Somalis from south Mogadishu prevented rivals from the northern half of the city from reporting to their jobs as dockworkers, port officials said.

The anarchy of city streets contrasts sharply with the largely self-contained world of the adjoining U.N. and American compounds here. Behind the fortified walls are orderly rows of tents and air-conditional trailers, volleyball courts and an Israeli-run post exchange featuring shaded outdoor seating and cold canned beer.

[From the Washington Post, Nov. 8, 1993]

AIDEED WARNS U.S. TROOPS OFF STREETS

(By Keith B. Richburg)

MOGADISHU, Somalia, Nov. 7.—Somalia militia leader Mohamed Farah Aideed warned the United States today to restrict the thousands of new American combat troops in Mogadishu to their barracks or risk "another bloody confrontation" such as the one last month that left 18 U.S. servicemen dead and 75 wounded.

"We are calling for the U.S. troops to confine [themselves] to their positions to avoid a repetition of the unfortunate events of the past," Aideed said in a rare news conference held in a largely abandoned villa in a neighborhood of dusty roads and alleyways that be controls. Aideed said deploying the U.S. troops now to retake the capital's streets from rival militias would be considered "provocative" and would violate an uneasy, month-long truce between U.S.-led United Nations forces here and Aideed's Somalia National Alliance (SNA) militia faction.

American diplomats and military officials here have said the U.S. infantrymen, backed by newly arrived MI tanks and Bradley Fighting Vehicles, would begin patrolling the city's main roads in the coming days, to reopen "lines of communication," secure the major supply routes and reestablish a visible foreign troop presence in the capital's dangerous streets, which lately have fallen back into the hands of gun-toting teenagers.

But Aideed, reacting to reports that a U.S. troop move into the streets was imminent, said, "There are no closed roads in Mogadishu.

Now Mogadishu is calm and business activities are running smoothly. Therefore, we see no viable reason for the deployment of foreign troops."

Speaking to about two dozen reporters and television camera crews, Aideed—who is technically still a fugitive from a U.N. arrest order—ruled out any negotiations with the United Nations to help end the six-month-long crisis in the capital, and he called on all U.N. troops to be withdrawn from Somalia.

"There is no negotiation for the moment, and I am not expecting any," Aideed said. He said the U.N. Operation in Somalia, known as UNOSOM, "has lost the confidence of the Somali people" and should "give up this operation in Somalia and leave the country."

Aideed's comments today were his first public statement in three weeks and seemed to indicate that following his earlier, conciliatory gestures—including releasing an American pilot and a Nigerian soldier that his militia had held captive—he is now moving back to a more confrontational position.

Senior members of Aideed's militia have expressed mounting frustration that the United Nations did not appear to be eagerly embracing the Clinton administration's recent policy shift toward dialogue and away from a military manhunt for Aideed, whose arrest the United Nations ordered for his suspected involvement in the ambush killings of 24 Pakistani peace keepers in June. U.N. officials here say they still want to capture Aideed.

It was uncertain, however, whether Aideed's remarks today indicated merely a rhetorical shift to a more confrontational tone or whether a resumption of military clashes in the capital is now likely. Aideed did not say specifically that American troops would be attacked if they took to the streets, but he said that deploying them now "would be a provocative action . . . an unnecessary step."

As a sign of some diplomatic thawing, the United Nations said today it had released 16 of the 58 Somali prisoners it was holding. None of the top SNA officials in custody was among those released.

One of the released prisoners, Abdi Farah, showed reporters marks on his wrists that he said were caused by the plastic handcuffs used by U.S. Army Rangers who captured him Oct. 3. He said he had been hit with rifle butts, but he showed no other outward signs of having been beaten. A senior U.N. official said today that at least some of the Somali prisoners had been on a hunger strike recently.

U.N. officials have said all the Somali detainees are being given medical treatment and have been allowed visits by the International Committee of the Red Cross. Reporters have been prohibited from seeing them or even entering the white, single-story detention facility where they are being kept under guard by Nigerian peace-keeping soldiers and military police.

Despite his warnings to the United States not to deploy its troops on the capital's streets, Aideed today appeared to go to some lengths to praise President Clinton for shifting U.S. policy on Somalia and blamed the United Nations for the continued stalemate in negotiations. He said UNOSOM "is responsible for the current crisis and proves to be the biggest obstacle to peace and reconciliation in Somalia."

Others involved in the ongoing diplomatic maneuverings agreed that the peace process appears to have stalled, and they said the United Nations must shoulder a large share of the blame. American diplomats and Africans helping mediate the conflict said U.N. officials here in Mogadishu were showing themselves to be surprisingly inflexible, refusing, for example, to back away from their public insistence on arresting Aideed without first having a Security Council vote to change their resolution authorizing the arrest.

Aideed last appeared at a news conference Oct. 14, when he announced the release of the American and Nigerian captives. Today, he appeared fit and in good humor for a man often described by U.N. officials as "hunted" and on the run. He wore a crisp white shirt, a silk tie and new wire-rim glasses he obtained while in hiding.

Aideed arrived at the hour-long news conference site in a white Toyota. Outside the villa, children on the streets chanted "Aideed! Ai-deed!" and flashed the victory sign.

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

Mr. HALL of Ohio. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution, as amended.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, further proceedings on this resolution will be postponed until 4 o'clock this afternoon, just prior to the pending vote on the motion to suspend the rules.

ANNOUNCEMENT REGARDING PLANS OF THE COMMITTEE ON RULES FOR CONSIDERATION OF H.R. 3425 AND H.R. 3351

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

Mr. HALL of Ohio. Mr. Speaker, this is to notify Members regarding the Rules Committee plans on H.R. 3425, the Department of Environmental Protection Act and H.R. 3351, Allowing Grants for Developing Alternative Methods of Punishment for Young Offenders. The committee is planning to meet on both measures the week of November 15 to take testimony and grant rules for these bills. In order to assure timely consideration on the bill on the floor, the Rules Committee is considering rules that may limit the offering of amendments.

Any Member who is contemplating an amendment to H.R. 3425 or to H.R. 3351, should submit, to the Rules Committee in H–312 in the Capitol, 55 copies of the amendment and a brief explanation of the amendment no later than 5:00 p.m. on Wednesday, November 10, 1993.

In addition to this announcement, "Dear Colleague, letters have already been circulated to all offices informing Members of these requests.

The committee appreciates the cooperation of all Members in this effort to be fair and orderly in granting rules for H.R. 3425 and H.R. 3351.

GENERAL LEAVE

Mr. HALL of Ohio. Mr. Speaker, I ask unanimous consent that all Members

may have 5 legislative days in which to revise and extend their remarks during debate on House Resolution 293, the rule just considered.

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

There was no objection.

CONFERENCE REPORT ON H.R. 3167, UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

Mr. ROSTENKOWSKI submitted the following conference report and statement on the bill (H.R. 3167) to extend the Emergency Unemployment Compensation Program, to establish a system of worker profiling, and for other purposes:

CONFERENCE REPORT (H. REPT. 103–333)

The committee of conference on the disagreeing votes of the two Houses on 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, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 1.

That the House recede from its disagreement to the amendment of the Senate numbered 2 and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment numbered 2, insert the following:

SEC. 9. EFFECTIVE DATES.

(a) REPEAL OF DISREGARD OF RIGHTS TO REGULAR COMPENSATION.—Notwithstanding the provisions of section 3(b) of this Act, the repeal made by section 3(a) of this Act shall apply to weeks of unemployment beginning after October 2, 1993, except that such repeal shall not apply in determining eligibility for emergency unemployment compensation from an account established before October 3, 1993.

(b) RAILROAD WORKERS.—

(1) IN GENERAL.—Paragraphs (1) and (2) of section 501(b) of the Emergency Unemployment Compensation Act of 1991 (Public Law 102–164, as amended), as amended by section 8(a)(1) of this Act, are each amended by striking "January 1, 1994" and inserting "February 5, 1994".

(2) CONFORMING AMENDMENT.—Section 501(a) of such Emergency Unemployment Compensation Act of 1991, as amended by section 8(a)(2) of this Act, is amended by striking "January 1994" and inserting "February 1994".

(3) TERMINATION OF BENEFITS.—Section 501(e) of such Emergency Unemployment Compensation Act of 1991, as amended by section 8(c) of this Act, is amended—

(A) by striking "January 1, 1994" and inserting "February 5, 1994", and

(B) by striking "March 26, 1994" and inserting "April 30, 1994".

And the Senate agree to the same.

From the Committee on Ways and Means, for consideration of Senate amendment numbered 2, and modifications committed to conference:

DAN ROSTENKOWSKI,
HAROLD FORD,

From the Committee on Post Office and Civil Service, for consideration of Senate amendment numbered 1, and modifications committed to conference:

WILLIAM CLAY,
FRANK MCCLOSKEY,
Managers on the Part of the House.

DANIEL PATRICK MOYNIHAN,
MAX BAUCUS,
BOB PACKWOOD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on 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, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment numbered 1 added a provision relating to the reduction of Federal full-time equivalent positions.

The Senate recedes from its amendment number 1.

The Senate amendment numbered 2 added a provision relating to limitation in eligibility for emergency unemployment compensation.

The House recedes from its disagreement to the amendment of the Senate numbered 2 with an amendment which is a substitute for the Senate amendment. The differences between the House bill and the Senate amendment, and the substitute amendment agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

I. EMERGENCY UNEMPLOYMENT COMPENSATION (EUC) PROGRAM

PRESENT LAW

The Federal Emergency Unemployment Compensation (EUC) program was first enacted in November 1991 and extended most recently by P.L. 103–6 on March 4, 1993. The EUC program, which expired on October 2, provides workers who have exhausted their regular State unemployment benefits (and who began receiving EUC benefits on or before October 2) with 15 weeks of benefits in States with the highest unemployment and 10 weeks of benefits in all other States. States with adjusted insured Unemployment rates (the average of the current week and the preceding 12 weeks) of at least 5 percent, or total unemployment rates (6-month moving average) of at least 9 percent, are eligible to pay the higher number of weeks of benefits. At present, only four States (Alaska, California, Rhode Island, and West Virginia) are eligible to provide 15 weeks of benefits.

The statute provides for a decline to 13 and 7 weeks of benefits if the national unemployment rate falls below 6.8 percent for two consecutive months. The rate for the months of August and September was 6.7 percent.

The EUC program expired on October 2. Unless the program is extended, workers who exhaust their regular State benefits after that date will be ineligible for EUC benefits. Workers who began receiving EUC benefits on or before October 2 will be entitled to the full number of weeks of benefits for which they were found eligible. However, no benefits are payable after January 15, 1994.

Individuals who have exhausted their rights to regular State benefits either because their benefit year has expired or because they have received all of the benefits to which they are entitled, may elect to receive either EUC benefits or regular State benefits under any new benefit year that has been established.

HOUSE BILL

The EUC program is extended through February 5, 1994. Workers who have exhausted or will exhaust their regular State benefits after October 2 will be eligible for up to 13 weeks of benefits in States with the highest unemployment. In all other States they will be eligible for up to 7 weeks of benefits. Workers who exhaust their regular State benefits after February 5 will not be eligible for EUC benefits. Workers who begin receiving EUC benefits on or before that date will be entitled to the full number of weeks of benefits for which they were found eligible. However, no EUC benefits will be payable after April 30, 1994.

The provision giving individuals the option to choose between EUC benefits and regular State benefits is repealed. After the date of enactment, no new EUC options will be exercised. However, individuals who began or continued EUC based on an option exercised before October 2, 1993, may continue to receive EUC until exhaustion of their EUC account.

SENATE AMENDMENT

Same as House bill.

CONFERENCE AGREEMENT

The Conference agreement follows the House bill and the Senate amendment, modified to provide that no new EUC options may be exercised after October 2, 1993.

II. ADDITIONAL UNEMPLOYMENT COMPENSATION FOR RAILROAD WORKERS

PRESENT LAW

Workers in the railroad industry are eligible for a separate unemployment compensation program that provides benefits basically equivalent to those provided under regular State unemployment compensation programs. Railroad workers with under 10 years of railroad service are not eligible for extended benefits. The UC law temporarily provides extended benefits to railroad workers with under 10 years of service and additional weeks of extended benefits to other qualifying railroad workers in order to maintain comparability with the EUC benefits provided to workers in other industries.

HOUSE BILL

Eligible railroad workers will continue to receive the additional benefits provided under the EUC law for other workers through January 1, 1994.

SENATE AMENDMENT

Same as House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment and conforms the expiration dates for the authorization of new claims and continued claims for railroad workers to that for other workers, which are February 5, 1993, and April 30, 1994, respectively.

III. WORKER PROFILING AND REEMPLOYMENT ASSISTANCE

PRESENT LAW

P.L. 103–6, enacted March 4, 1993, directs the Secretary of Labor to establish a program for encouraging the adoption and implementation of State systems of profiling all new claimants for regular unemployment compensation. These systems are to be used to determine which claimants might be most likely to exhaust their regular unemployment compensation benefits and might need

reemployment assistance services to make a successful transition to new employment.

HOUSE BILL

Each State's unemployment agency is required to establish a profiling system as described above, and to refer claimants identified as needing services to reemployment services available under any State or Federal law. The State agency is also required to collect follow-up information relating to the services received by claimants and the employment outcomes for such claimants subsequent to receiving services, and to use this information in making identifications under this profiling system. States that fail to comply substantially with these requirements may be subject to withholding of administrative funds until the Secretary is satisfied that there is no longer any such failure.

In addition, the bill provides that as a condition of eligibility for unemployment compensation benefits, a claimant who has been referred to reemployment services pursuant to the profiling system must participate in these or similar services unless the State agency determines that the claimant has completed such services, or there is justifiable cause for failure to participate.

Reemployment services will include job search assistance and job placement services, such as counseling, testing, and providing occupational and labor market information, assessment, job search workshops, job clubs and referrals to employers, and other similar services.

The Secretary of Labor is directed to provide technical assistance and advice to assist the States in implemneting the profiling system, including the development and identification of model profiling systems.

Not later than three years after the date of enactment, the Secretary of Labor is required to report to the Congress on the operation and effectiveness of the profiling system and the participation requirement, with such recommendations as the Secretary determines to be appropriate.

Effective Date.—The profiling requirement is effective one year after the date of enactment.

SENATE AMENDMENT

Same as House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

IV. TECHNICAL AMENDMENT TO UNEMPLOYMENT TRUST FUND

PRESENT LAW

The Emergency Unemployment Compensation Act, as amended, inadvertently included language amending section 905(b)(1) of the Social Security Act. The language assumes enactment of a provision that had been proposed, but never enacted.

HOUSE BILL

The bill restores language in section 905(b)(1) of the Social Security Act that was inadvertently changed by P.L. 102-318. This section provides for the transfer of funds to the State administration accounts.

SENATE AMENDMENT

Same as House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

V. EXTENSION OF REPORTING DATE FOR ADVISORY COUNCIL

PRESENT LAW

P.L. 102-164, the Emergency Unemployment Compensation Amendments of 1991, provided for the establishment of a quadrennial advisory council on unemployment compensation to examine the purpose, goals, and functioning of the unemployment compensation system, and to make recommendations for improvement. The first report is due by February 1, 1994.

HOUSE BILL

The due date for the first report would be delayed for one year. Subsequent reports would be due the third year following the establishment of the council, rather than the second year.

SENATE AMENDMENT

Same as House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

VI. INCREASE IN SPONSORSHIP PERIOD FOR ALIENS UNDER THE SUPPLEMENTAL SECURITY INCOME (SSI) PROGRAM

PRESENT LAW

The SSI program provides Federal benefits to aged, blind, and disabled individuals whose income and resources are below specified amounts. To be eligible, an individual must be either a citizen of the United States or an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

Under current law, the income and resources of an alien's sponsor are considered in determining the alien's eligibility for SSI benefits. A sponsor is an individual who has signed an affidavit of support as a condition of the alien's admission for permanent residence in the United States. This "deeming" of income and resources applies for 3 years after the alien's entry into the United States. After the 3 years, the alien's eligibility for SSI is determined without regard to the income and resources of the sponsor. The "deeming" requirement does not apply with respect to an individual who becomes disabled or blind after entering the United States.

HOUSE BILL

The period during which the sponsor's income and resources would be "deemed" to the alien would be extended from 3 to 5 years.

Effective Date.—The provision would be effective January 1, 1994 through fiscal year 1996. The provision would not apply in the case of individuals who are eligible for SSI for December 1993 (or whose eligibility is suspended but not terminated) and whose 3-year deeming period ended prior to January 1994. Thus, individuals who apply for SSI benefits on or after January 1, 1994, and individuals on the SSI rolls (because their sponsors' deemed income and resources do not make them ineligible) whose 3-year deeming period has not ended by January 1, 1994, would come under the 5-year rule.

SENATE AMENDMENT

Same as House bill.

CONFERENCE AGREEMENT.

The conference agreement follows the House bill and the Senate amendment.

VII. INCOME LIMIT FOR RECIPIENTS OF EUC BENEFITS

PRESENT LAW

Under the permanent Federal-State unemployment insurance program, unemployed individuals who meet eligibility requirements may receive up to 26 weeks of State unemployment benefits without regard to their taxable income. Those individuals who exhaust their regular State benefits, but continue to be unemployed, are eligible to receive additional weeks of benefits under the temporary emergency unemployment compensation (EUC) program, also without regard to their taxable income.

HOUSE BILL

No provision.

SENATE AMENDMENT

Benefits under the emergency unemployment compensation program may not be paid to any individual whose taxable income for 1992 exceeds $120,000.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, i.e., no provision.

VIII. LIMITATIONS ON FULL-TIME EQUIVALENT POSITIONS

PRESENT LAW

The President and the Congress, through the enactment of appropriation legislation, determine the number of full-time equivalent positions that may be employed by each agency of the Government. In February 1993, the President, by Executive Order, mandated that employment levels be reduced by 100,000 full-time equivalent positions over 3 years. In September 1993, Vice President Gore's National Performance Review recommended that the Federal workforce be reduced by 252,000 full-time equivalent positions.

HOUSE BILL

No provision.

SENATE AMENDMENT

The President, through the Office of Management and Budget, shall ensure that the total number of full-time equivalent positions in all agencies of the Government shall not exceed 2,095,182 such positions during fiscal year 1994; 2,044,100 positions during fiscal year 1995; 2,003,846 during fiscal year 1996; 1,963,593 during fiscal year 1997; 1,923,339 during fiscal year 1988; and 1,883,086 during fiscal year 1999.

The Office of Management and Budget, after consultation with the Office of Personnel Management, shall continuously monitor all agencies and determine, on the first date of each quarter of each applicable fiscal year, whether the required limitation on full-time equivalent positions has been met, and shall notify the President and the Congress of any determination that such limitation has been exceeded.

If the Office of Management and Budget determines that the applicable limitation on full-time equivalent positions for any fiscal year has been exceeded, no agency may hire any employee for any position until the total number of full-time equivalent positions for all agencies equals or is less than the applicable limitation.

Any of the provisions in the bill may be waived upon a determination by the President of the existence of war or a national security requirement, or 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.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, i.e., no provision.

From the Committee on Ways and Means, for consideration of Senate amendment numbered 2, and modifications committed to conference:

DAN ROSTENKOWSKI,
HAROLD FORD,

From the Committee on Post Office and Civil Service, for consideration of Senate amendment numbered 1, and modifications committed to conference:

WILLIAM CLAY,
FRANK MCCLOSKEY,
Managers on the Part of the House.

DANIEL PATRICK MOYNIHAN,
MAX BAUCUS,
BOB PACKWOOD,
Managers on the Part of the Senate.

RECESS

The SPEAKER pro tempro. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 4 p.m. today.

Accordingly (at 2 o'clock and 8 minutes p.m.), the House stood in recess until 4 p.m.

□ 1600

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. YATES) at 4 p.m.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

PROVIDING FOR CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 170, REMOVAL OF UNITED STATES ARMED FORCES FROM SOMALIA

The SPEAKER pro tempore. The pending business is the vote on House Resolution 293.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 390, nays 8, not voting 35, as follows:

[Roll No. 548]

YEAS—390

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Canady
Cantwell
Cardin
Carr
Castle
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeLauro
DeLay
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English (AZ)
English (OK)
Eshoo
Evans
Everett
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Foglietta
Ford (MI)
Ford (TN)
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Hughes
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson, E.B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McMillan
McNulty
Meehan
Menendez
Meyers
Mfume
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Molinari
Montgomery
Moorhead
Moran
Morella
Murphy
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Snowe
Solomon
Spence
Stearns
Stenholm
Strickland
Studds
Stump
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velázquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff

NAYS—8

Dellums
Goodling
Huffington
Hunter
McKinney
Mica
Owens
Zimmer

NOT VOTING—35

Barton
Becerra
Blute
Brown (OH)
Camp
Chapman
Clay
DeFazio
Dooley
Ewing
Flake
Frank (MA)
Gibbons
Harman
Hinchey
Johnson (SD)
Lewis (CA)
Lewis (FL)
Meek
Moakley
Mollohan
Murtha
Petri
Pickett
Pickle
Sangmeister
Schenk
Slattery
Smith (OR)
Smith (TX)
Spratt
Stark
Stokes
Sundquist
Wise

□ 1621

Mr. PACKARD and Mr. BEREUTER changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

INDEPENDENT SAFETY BOARD ACT AMENDMENTS OF 1993

The SPEAKER pro tempore (Mr. ORTON). The pending business is the question of suspending the rules and passing the bill, H.R. 2440.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. OBERSTAR] that the House suspend the rules and pass the bill, H.R. 2440, on which the yeas and nays are ordered.

The Chair reminds Members that this will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 353, nays 49, not voting 31, as follows:

[Roll No. 549]

YEAS—353

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Baker (CA)
Baker (LA)
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Boehlert
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Bryant
Bunning
Buyer
Byrne
Calvert
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Combest
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Dooley
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel

English (AZ)
English (OK)
Eshoo
Evans
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hamburg
Hamilton
Hansen
Hastert
Hastings
Hayes
Hefley
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hutchinson
Hutto
Hyde
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Knollenberg
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McDermott
McHale
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Molinari
Montgomery
Moorhead
Moran
Morella
Murphy
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Packard
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Snowe
Spence
Stark
Stearns
Strickland
Studds
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zimmer

NAYS—49

Allard
Archer
Armey
Bachus (AL)
Ballenger
Bartlett
Boehner
Burton
Callahan
Coble
Collins (GA)
Condit
Crane
DeLay
Doolittle
Dornan
Dreier
Duncan
Everett
Grams
Hall (TX)
Hancock
Herger
Hoke
Hunter
Inglis
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Kyl
McCrery
McHugh
Nussle
Paxon
Penny
Ramstad
Roberts
Rohrabacher
Royce
Sensenbrenner
Solomon
Stenholm
Stump
Taylor (MS)
Walker
Zeliff

NOT VOTING—31

Barton
Blute
Brown (OH)
Camp
Clay
DeFazio
Dicks
Ewing
Frank (MA)
Gibbons
Harman
Johnson (SD)
Lewis (CA)
Lewis (FL)
Meek
Moakley
Mollohan
Murtha
Oxley
Petri
Pickett
Pickle
Sangmeister
Shepherd
Slattery
Smith (OR)
Smith (TX)
Spratt
Stokes
Sundquist
Wise

□ 1632

Messrs. KIM, McHUGH, KING, TAYLOR of Mississippi, and HALL of Texas changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. LEWIS of Florida. Mr. Speaker, due to a death in my family, I was unable to vote on House Resolution 293 or H.R. 2440. Had I been here, I would have voted "aye" on both measures.

PERSONAL EXPLANATION

Mr. PICKLE. Mr. Speaker, I was unavoidably detained and therefore unable to vote on House Resolution 293 and H.R. 2440. Had I been present, I would have voted "yea" on the Hamilton amendment and I would have opposed the Gilman amendment.

PERSONAL EXPLANATION

Mr. BLUTE. Mr. Speaker, I was unavoidably detained in Massachusetts, and was unable to cast two rollcall votes.

I would like the record to show that had I been present I would have voted as follows:

Rollcall 548—"yea."

Rollcall 549—"yea."

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3167, UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

Mr. WHEAT, from the Committee on Rules, submitted a privileged report (Rept. No. 103–334) on the resolution (H. Res. 298) waiving points of order against the conference report on the bill (H.R. 3167) to extend the Emergency Unemployment Compensation Program, to establish a system of worker profiling, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1036, AMENDING THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Mr. WHEAT, from the Committee on Rules, submitted a privileged report (Rept. No. 103–335) on the resolution (H. Res. 299) providing for consideration of the bill (H.R. 1036) to amend the Employee Retirement Income Security Act of 1974 to provide that such act does not preempt certain State laws, which are referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

Such rollcall vote, if postponed, will be taken on Tuesday, November 9, 1993.

TELECOMMUNICATIONS INFRASTRUCTURE AND FACILITIES ASSISTANCE ACT OF 1993

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2639) to authorize appropriations for the promotion and development of the U.S. national telecommunications and information infrastructure, the construction and planning of public broadcasting facilities, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2639

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 "Telecommunications Infrastructure and Facilities Assistance Act of 1993".

SEC. 2. FINDINGS.

The Congress finds and declares the following:

(1) A strong commitment to building the national telecommunications and information infrastructure will promote economic growth, aid America's competitiveness, and increase the Nation's standard of living.

(2) An advanced telecommunications and information infrastructure initiative serves the national interest.

(3) Private sector investments in the United States telecommunications and information infrastructure can benefit from a Federal investment in demonstration projects in which advanced telecommunications capabilities are used

to aid the delivery of critical social services such as education and health care traditionally supported by government.

(4) Government funding of demonstrations and pilot projects of telecommunications and information infrastructure applications for health care providers, educational institutions, research facilities, State and local governments, libraries, and other social service and public information providers can serve as a catalyst in promoting increased private sector investment in, and continued development of, the national telecommunications and information infrastructure.

(5) Federal assistance in the promotion of the national telecommunications and information infrastructure will use a wide range of technologies including, but not limited to, broadcast, fiber optic cable, coaxial cable, satellite systems, and microwave systems.

(6) Providing assistance to help eligible entities connect to and fully utilize existing and developing telecommunications networks and information services is in the public interest.

(7) There are tremendous information resources in the Nation, but the benefits of an advanced telecommunications and information infrastructure will be enhanced when United States citizens have reasonable access to such existing and future information resources.

(8) Federal support of public broadcasting has helped provide valuable and useful educational and cultural programs that reach nearly all citizens of the United States.

(9) The Federal Government shall ensure that all citizens of the United States have access to public telecommunications services through all appropriate available telecommunications distribution technologies.

(10) Public telecommunications entities and services constitute valuable local community resources for utilizing electronic media to address national concerns and solve local problems through community programs.

(11) The Federal Government should encourage partnerships to adapt technologies to public service uses in a cost-effective manner, utilizing and maintaining existing facilities where appropriate and effective, and to avoid duplicate services or capacities which are currently provided by public telecommunications entities.

SEC. 3. NATIONAL TELECOMMUNICATIONS AND INFORMATION INFRASTRUCTURE DEVELOPMENT.

(a) AMENDMENTS TO THE NTIAO ACT.—The National Telecommunications and Information Administration Organization Act is amended—

(1) by redesignating part C as part F; and

(2) by inserting after part B the following new parts:

"PART C—PLANNING AND CONSTRUCTION OF PUBLIC BROADCASTING FACILITIES

"SEC. 121. PURPOSE.

"The purpose of this part is to assist, through matching grants, in the planning and construction of public broadcasting facilities in order to achieve the following objectives:

"(1) extend delivery of public broadcasting services to as many citizens of the United States as possible by the most efficient and economical means, including broadcast, fiber optic cable, coaxial cable, satellite systems, and microwave systems;

"(2) increase public broadcasting services and facilities available to, operated by, and owned by minorities and women; and

"(3) strengthen the capability of existing public broadcasting entities to provide public broadcasting services to the public.

"SEC. 122. GRANTS FOR CONSTRUCTION.

"(a) APPLICATIONS FOR GRANTS.—Any eligible applicant (as described in paragraph (1)) desiring to obtain a grant under this part for the construction of public broadcasting facilities shall submit to the Secretary an application containing such information with respect to the proposed construction project as the Secretary may require, including the total cost of such project and the amount of the grant requested for such project. Each applicant shall also provide assurances satisfactory to the Secretary that—

"(1) the applicant is—

"(A) a public broadcast station;

"(B) a system of public broadcasting entities;

"(C) a nonprofit foundation, corporation, institution, or association organized primarily for educational or cultural purposes; or

"(D) a State or local government (or any agency thereof), or a political or special purpose subdivision of a State;

"(2) the operation of such public broadcasting facilities will be under the control of the applicant;

"(3) necessary funds to construct, operate, and maintain such public broadcasting facilities will be available when needed;

"(4) such public broadcasting facilities will be used primarily for the provision of public broadcasting services, and the use of such public broadcasting facilities for purposes other than the provision of public broadcasting services will not interfere with the provision of such public broadcasting services as required in this part;

"(5) the applicant has participated in comprehensive planning for such public broadcasting facilities in the area which the applicant proposes to serve, and such planning has included an evaluation of alternate technologies and coordination with State educational television and radio agencies, as appropriate; and

"(6) the applicant will use the grant efficiently and effectively.

"(b) AMOUNT OF GRANT.—Upon approving any application under this section with respect to any project for the construction of public broadcasting facilities, the Secretary shall make a grant to the applicant in an amount determined by the Secretary, except that such amount shall not exceed 75 percent of the amount determined by the Secretary to be the reasonable and necessary cost of such project. The Secretary may provide such funds as the Secretary deems necessary for the planning of any project for which construction funds may be obtained under this section.

"(c) PLANNING GRANTS.—

"(1) INFORMATION AND ASSURANCES.—An applicant for a planning grant shall provide such information with respect to such project as the Secretary may require and shall provide assurances satisfactory to the Secretary that the applicant meets the eligibility requirements of subsection (a) to receive construction assistance.

"(2) STUDIES.—Any studies conducted by or for any grant recipient under this subsection shall be provided to the Secretary, if such studies are conducted through the use of funds received under this section.

"(d) REGULATIONS; PRIORITIES.—The Secretary shall establish such regulations as may be necessary to carry out this part, including regulations relating to the order of priority in approving applications for construction or planning projects and relating to determining the amount of each grant.

"(e) SPECIAL CONSIDERATION.—In establishing criteria for grants pursuant to this section, and in establishing procedures relating to the order of priority established under subsection (d) in approving applications for grants, the Secretary shall give special consideration to applications which would increase participation by minorities, women, and populations traditionally underserved in the ownership and operation of public broadcasting entities. The Secretary shall take affirmative steps to inform minorities, women, and underserved populations of the availability of funds under this part, and the localities where new public broadcasting facilities are needed, and to provide such other assistance and information as may be appropriate.

"SEC. 123. CRITERIA FOR APPROVAL AND EXPENDITURES BY NTIA.

"(a) CONSTRUCTION AND PLANNING GRANTS.—The Secretary, in consultation with the Corporation for Public Broadcasting, public broadcasting entities, and, as appropriate, with others, shall establish criteria for making construction and planning grants. Such criteria shall be consistent with the objectives and provisions set forth in this part, and shall be made available to interested parties upon request.

"(b) BASIS FOR DETERMINATION.—The Secretary shall base determinations of whether to approve applications for grants under this part, and the amount of such grants, on criteria developed pursuant to subsection (a) that are designed to achieve—

"(1) the establishment of new public broadcasting facilities to extend service to areas currently not receiving public broadcasting services;

"(2) the expansion of the service areas or production capabilities of existing public broadcasting entities;

"(3) the development of public broadcasting facilities owned by, operated by, and available to minorities and women; and

"(4) the improvement of the capabilities of existing public broadcasting entities to provide public broadcasting services, including services to underserved audiences such as deaf and hearing impaired individuals and blind and visually impaired individuals.

"(c) NONCOMMERCIAL RADIO BROADCAST STATION FACILITIES.—Of the sums appropriated pursuant to section 125 for any fiscal year, a substantial amount shall be available for the expansion and development of noncommercial radio broadcast station facilities.

"SEC. 124. ADMINISTRATIVE PROVISIONS.

"(a) RECOVERY OF FUNDS.—If, within 5 years after completion of any project for construction of facilities, with respect to which a grant has been made under this section—

"(1) the applicant or other owner of such facilities ceases to be an entity as described in section 122(a)(1); or

"(2) such facilities cease to be used primarily for the provision of public broadcasting services (or the use of such public broadcasting facilities for purposes other than the provision of public broadcasting services interferes with the provision of such public broadcasting services as required in this part);

the United States shall be entitled to recover from the applicant or other owner of such facilities the amount bearing the same ratio to the value of such facilities at the time the applicant ceases to be such an entity or at the time of such determination (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facilities are situated), as the amount of the Federal participation bore to the cost of construction of such facilities. The Secretary may increase the period for recovery under the preceding sentence from 5 to 10 years if the Secretary determines that the longer period is necessary in order to accomplish the purposes of this part.

"(b) RECORDKEEPING REQUIREMENTS.—Each recipient of assistance under this part shall keep such records as may be reasonably necessary to enable the Secretary to carry out the functions of the Secretary under this part, including—

"(1) a complete and itemized inventory of all public broadcasting facilities under the control of such recipient;

"(2) records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the

project in connection with which such assistance is given or used, the amount and nature of that portion of the cost of the project supplied by other sources; and

"(3) such other records as will facilitate an effective audit.

"(c) ACCESSIBILITY OF RECORDS.—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any recipient of assistance under this part that relate to assistance received under this part.

"SEC. 125. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $35,000,000 for each of the fiscal years 1995 and 1996, to be used by the Secretary to assist in the planning and construction of public broadcasting facilities as provided in this part. Sums appropriated under this part for any fiscal year are authorized to remain available until expended. Sums appropriated under this part may be used by the Secretary to cover the cost of administering the provisions of this part.

"PART D—TELECOMMUNICATIONS AND INFORMATION INFRASTRUCTURE PROGRAM

"SEC. 131. PURPOSE.

"It is the purpose of this part to facilitate the development of the national telecommunications and information infrastructure by authorizing the Secretary to establish and maintain, by the most efficient and economical means, a Telecommunications and Information Infrastructure Development Program that will promote the widespread availability of advanced telecommunications technologies to—

"(1) enhance the delivery to the public of diverse social services, including education and health care; and

"(2) support, through the interconnection and improvement of existing facilities and the deployment of new facilities, the formation of a nationwide, multimedia, high-speed, interactive infrastructure of varied information technologies.

"SEC. 132. GRANT AUTHORITY.

"(a) GRANT PURPOSES AND CRITERIA.—In accordance with the requirements of this part, the Secretary is authorized to award grants to eligible applicants (as described in subsection (b)(1)) to assist the development of a national telecommunications and information infrastructure. The Secretary shall not award a grant under this part unless the Secretary determines that the project will promote one or more of the following objectives:

"(1) expand or otherwise augment telecommunications networks or information technology systems for health care providers, educational institutions, research facilities, libraries, museums, State and local governments, and other social service and public information providers;

"(2) enhance the ability, through interconnection, of health care providers, educational institutions, research facilities, libraries, museums, State and local governments, and other social service and public information providers to have access to existing and new sources of information;

"(3) the development and utilization of standards for interoperability and interconnection of the various facilities, systems, and networks which would comprise a demonstration or pilot project;

"(4) universal availability and utilization of an advanced telecommunications and information infrastructure, especially for traditionally underserved populations; and

"(5) demonstrate and improve the efficiency and effectiveness of the delivery of social services, such as education and health care, to the American people.

"(b) APPLICATIONS FOR GRANTS.—Any eligible applicant desiring to obtain a grant under this part shall submit to the Secretary an application containing such information with respect to such project as the Secretary may require. Each applicant shall also provide assurances satisfactory to the Secretary that—

"(1) the applicant is—

"(A) a nonprofit foundation, corporation, institution, or association;

"(B) a State or local government (or any agency thereof), or a political or special purpose subdivision of a State or local government; or

"(C) any enterprise owned and operated by a State or local government entity;

"(2) the applicant has the technical, administrative, and financial capability to obtain, operate, and maintain the facilities, systems, or networks that are the subject of the application;

"(3) the applicant has chosen an efficient and economical means to achieve its communications or information needs, and has not failed to utilize commercially available network services to meet such needs to the extent such commercial services meet the needs of the applicant in the most efficient and economical manner;

"(4) the applicant has participated in comprehensive planning for such facilities, systems, or networks and such planning has included an evaluation of alternative technologies and coordination with appropriate State agencies, as needed;

"(5) the amount of the grant will not exceed 50 percent of the amount determined by the Secretary to be the reasonable and necessary cost of such project, unless the Secretary determines that extraordinary circumstances warrant permitting a grant in an amount that will not exceed 75 percent of such cost; and

"(6) the applicant will use any facility, system, or network obtained with funds provided under this section primarily to achieve the objectives identified in the application and will comply with regulations prescribed by the Secretary with respect to resale of any capacity of such facility, system, or network.

"(c) REGULATIONS; PRIORITIES.—The Secretary shall establish such regulations as may be necessary to carry out this part, including regulations relating to the order of priority to be used in approving applications and relating to determining the amount of each grant for such projects. As part of such regulations, the Secretary shall provide a preference in the award of assistance for projects that increase utilization and efficiency of existing telecommunications and information facilities. The Secretary shall seek the views of the Secretary of Education, the Secretary of Health and Human Services, and the Director of the National Science Foundation in developing the regulations authorized under this part. Such regulations shall include such regulations for purposes of subsection (b)(6) as the Secretary determines to be necessary to prevent an applicant from using commercial resale of excess capacity to compete unfairly with providers of telecommunications services.

"(d) SPECIAL CONSIDERATION.—In establishing criteria for grants pursuant to this part, and in establishing procedures relating to the order of priority established under subsection (c) in approving applications for grants, the Secretary shall give special consideration to applications that (1) will increase participation by minorities, individuals with disabilities, women, and other underserved populations in the ownership of, operation of, and access to, telecommunications and information infrastructure; and (2) will avoid unnecessary duplication of existing facilities and services. The Secretary shall take affirmative steps to inform minorities, individuals with disabilities, women, and other underserved populations of the availability of funds under this part, and to provide such other assistance and information as may be appropriate.

"SEC. 133. TRAINING AND PLANNING.

"(a) TRAINING EXPENSES.—The Secretary is authorized to provide funds for necessary and reasonable expenses for training in the operation of the facilities, systems, or networks developed pursuant to this part, except that such expenditures shall be authorized only for a period not to exceed one year after termination of the grant for the telecommunications or information facility, system, or network funded under this part.

"(b) PLANNING AND STUDIES.—The Secretary is authorized to provide up to 100 percent of the cost of planning projects or studies that will promote the development or enhancement of the national telecommunications and information infrastructure. Any plans or studies conducted by or for any grant recipient under this section shall be provided to the Secretary. An applicant for a planning grant shall provide such information with respect to such project as the Secretary may require and shall provide assurances satisfactory to the Secretary that the applicant meets the requirements of section 132(b)(1).

"SEC. 134. ADMINISTRATIVE PROVISIONS.

"(a) RECOVERY OF FUNDS.—If, within five years after completion of any project with respect to which a grant has been made under this part—

"(1) the applicant or other owner of the facility, system, or network ceases to be an agency, institution, foundation, corporation, association, or other entity described in section 132(b)(1); or

"(2) such facility, system, or network ceases to be used primarily for the intended purposes of the grant project;

the United States shall be entitled to recover from the applicant or other owner of such facility, system, or network an amount bearing the same ratio to the value of such facility, system, or network at the time the applicant ceases to be such an entity or at the time of such determination (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility, system, or network is situated), as the amount of the Federal grants bore to the cost of construction of such facility, system, or network.

"(b) RECORDKEEPING REQUIREMENTS.—Each recipient of assistance under this part shall keep such records as may be reasonably necessary to enable the Secretary to carry out the functions of the Secretary under this part, including—

"(1) a complete and itemized inventory of all telecommunications and information facilities, systems, or networks under the control of such recipient procured with funds authorized under this part;

"(2) records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project in connection with which such assistance is given or used, the amount and nature of that portion of the cost of the project supplied by other sources; and

"(3) such other records as will facilitate an effective audit.

"(c) ACCESSIBILITY OF RECORDS.—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any recipient of assistance under this part that relate to assistance received under this part.

"(d) DUTY TO MONITOR.—The Secretary shall monitor and evaluate projects in order to determine that such projects fulfill the objectives of this part. The Secretary shall evaluate the activities of the assistance program under this part

to assure that it is fulfilling its goals and objectives. The Secretary shall develop criteria for evaluations pursuant to section 132(c). Not later than January 1, 1998, the Secretary shall submit to the Congress a summary of the results of the monitoring and evaluation conducted under this subsection.

"(e) CLEARINGHOUSES.—

(1) CLEARINGHOUSE ON DISTANCE LEARNING.—In carrying out the requirements of subsection (d), and in collecting studies pursuant to section 133(b), the Secretary shall provide for the collection and dissemination of information concerning distance learning. The Secretary shall maintain information on distance learning providers; receive, review, and analyze reports of different distance learning activities; and publish periodically a compilation of the reports submitted and such analysis.

(2) CLEARINGHOUSE ON TELEMEDICINE.—In carrying out the requirements of subsection (d), and in collecting studies pursuant to section 133(b), the Secretary shall provide for the collection and dissemination of information concerning telemedicine projects. The Secretary shall maintain information on telemedicine projects, receive, review, and analyze reports of different telemedicine activities, and publish periodically a compilation of the reports submitted and such analysis.

"SEC. 135. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part $100,000,000 for fiscal year 1995 and $150,000,000 for fiscal year 1996. Sums appropriated under this section for any fiscal year are authorized to remain available until expended. Sums appropriated under this section may be used by the Secretary to cover the direct and indirect costs of administering the provisions of this part, for evaluating the effectiveness of the program and projects funded pursuant to this part, and for other related activities. Up to 5 percent of the funds appropriated pursuant to this section may be used by the Secretary for research to support the grant making activities under this part.".

(b) TRANSFER AND REAUTHORIZATION OF NATIONAL ENDOWMENT FOR CHILDREN'S TELEVISION.—The Communications Act of 1934 (hereinafter in this subsection referred to as "the 1934 Act") and the National Telecommunications and Information Administration Organization Act (hereinafter in this subsection referred to as "the NTIAO Act") are amended as follows:

(1) The NTIAO Act is amended by inserting after part D (as added by subsection (a) of this section) a new part E, the heading of which shall be as follows:

"PART E—NATIONAL ENDOWMENT FOR CHILDREN'S TELEVISION".

(2) Section 394 of the 1934 Act is transferred to such new part E of the NTIAO Act and is redesignated as section 141 of the NTIAO Act.

(3) Such section 141 is amended so that the section designation and section heading of such section shall be in the form and typeface of the section designation and section heading of this section.

(4) Subsection (h) of such section 141 is amended to read as follows:

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $6,000,000 for each of the fiscal years 1995 and 1996, to be used by the Secretary to carry out the provisions of this section. Sums appropriated under this subsection for any fiscal year shall remain available for contracts and grants for projects for which applications approved under this section have been submitted within one year after the last day of such fiscal year.".

(c) CONFORMING AMENDMENTS.—

(1) NTIAO ACT DEFINITIONS.—Section 102(a) of the National Telecommunications and Information Administration Organization Act is amended by adding at the end the following new paragraphs:

"(6) The term 'construction' means acquisition (including acquisition by lease), installation and modernization of public broadcasting facilities, and planning and preparatory steps incidental to any such acquisition, installation, or modernization.

"(7) The term 'interconnection' means the use of an association of transmission channels or telecommunication circuits, switching units, or other equipment to provide the means of a transfer of signals between two or more points in a telecommunications network or networks or the use of an interconnection system.

"(8) The term 'interconnection system' means any system of facilities used for the distribution of programs to public telecommunications entities (as such term is defined in section 397 of the Communications Act of 1934 (47 U.S.C. 397).

"(9) The term 'public broadcasting facilities' means telecommunications and related equipment necessary for the provision of public broadcasting services, except that such term does not include the buildings to house such apparatus (other than small equipment shelters that are part of satellite Earth stations, translators, microwave interconnection facilities, and similar facilities).

"(10) The term 'public broadcasting services' means the production, acquisition, distribution, or dissemination of noncommercial, educational, or cultural programs and related noncommercial and instructional and informational material disseminated by entities licensed by the Federal Communications Commission as noncommercial educational broadcast stations.

"(11) The term 'nonprofit' (as applied to any foundation, corporation, or association) means a foundation, corporation, or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(12) The term 'public broadcasting entity' means the Corporation, any licensee or permittee of a public broadcast station, or any nonprofit institution engaged primarily in the production, acquisition, distribution, or dissemination of educational and cultural television or radio programs.

"(13) The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.".

(2) DELEGATION.—Section 103(b)(3)(B) of The National Telecommunications and Information Administration Organization Act is amended to read as follows:

"(B) shall assign to the Assistant Secretary and the NTIA the administration of parts C through E of this title.".

(3) COMMUNICATIONS ACT AMENDMENTS.—Part IV of title III of the Communications Act of 1934 (47 U.S.C. 390 et seq.) is amended—

(A) by striking subparts A, B, and C (47 U.S.C. 390–395);

(B) by redesignating subparts D and E as subparts A and B; and

(C) in section 397—

(i) by amending paragraph (1) to read as follows:

"(1) The term 'construction' means acquisition (including acquisition by lease), installation and modernization of public broadcasting facilities, and planning and preparatory steps incidental to any such acquisition, installation, or modernization.";

(ii) in paragraph (2), by striking "subpart D" and inserting "subpart A";

(iii) by striking paragraph (10);

(iv) by amending paragraph (15) to read as follows:

"(15) The term 'Secretary' means the Secretary of Health and Human Services."; and

(v) by redesignating paragraphs (11) through (17) as paragraphs (10) through (16), respectively.

SEC. 4. REAUTHORIZATION OF THE NTIA.

(a) AMENDMENT.—Section 151 of the National Telecommunications and Information Administration Organization Act is amended by striking "$17,600,000 for fiscal year 1992 and $17,900,000 for fiscal year 1993" and inserting "$28,000,000 for each of the fiscal years 1995 and 1996".

(b) TECHNICAL AMENDMENT.—Section 105(c)(2) of such Act is amended by adding at the end the following: "The Secretary is authorized to retain and use all funds transferred, or previously transferred, from other Government agencies for all costs incurred in telecommunications research, engineering, and related activities by the Institute for Telecommunications Sciences of the NTLA in furtherance of its assigned functions under this section. Such funds received from other Government agencies shall remain available until expended.".

SEC. 5. STUDY REQUIRED.

Part F of the National Telecommunications and Information Administration Organization Act (as redesignated by section 3(a)(1) of this Act) is amended by adding at the end the following new section:

"SEC. 156. STUDY AND REPORT ON SATELLITE-BASED EDUCATIONAL NETWORK FOR AFRICAN CHILDREN.

"(a) STUDY REQUIRED.—Within 6 months following enactment of this section, the National Telecommunications and Information Administration shall conduct a feasibility study to identify the opportunities, facilities, programming and other resources necessary to establish networks using modern telecommunications technologies for the purpose of providing educational and other training essential to ensure growth and opportunities in Africa. The study shall pay particular attention to the educational needs of children residing in rural and remote areas, and to the opportunities to address those needs. In conducting such study, the National Telecommunications and Information Administration shall identify resources and programs of governmental, nongovernmental, and multinational agencies that may be deployed promptly and economically. The study shall identify any legal, procedural, or technical impediments to the establishment of such a network or networks and the appropriate steps to remove such impediments.

"(b) REPORT REQUIRED.—The National Telecommunications and Information Administration shall submit to the President and the Congress a report on the results of the study required by subsection (a). The National Telecommunications and Information Administration shall include in such report any legislative or administrative actions required to promote the establishment of such a network.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $285,000 to carry out this section.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

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

Mr. Speaker, I rise in support of H.R. 2639, the Telecommunications Infrastructure and Facilities Assistance Act of 1993.

This bill, which passed unanimously both the Subcommittee on Telecommunications and Finance and the full Committee on Energy and Commerce, is a signal that the Government will assist in bringing the information age to all Americans. This bill is about demonstrating that the benefits of the technological revolution are more than just access to 10,000 movie titles at its best, the revolution is about information; it's about doctors diagnosing patients across the State through telemedicine applications. It's about students conversing with other students across the country through distance learning programs. In essence, this bill promotes the promise of an information age for all Americans, rich and poor, in cities and in rural areas.

Allow me to explain briefly how H.R. 2639 will demonstrate this promise. H.R. 2639 amends the National Telecommunications and Information Administration Organization Act by creating a Public Broadcasting Facilities Program to accelerate the development of a nationwide communications and information infrastructure that is accessible to all Americans.

Specifically, this bill improves the Public Telecommunications Facilities Program by creating a Public Broadcasting Facilities Program in recognition of the importance of broadcasting in the dissemination of information. This program will extend the delivery of public broadcasting services to as many citizens of the United States as possible, using all sorts of technological mediums from microwave to fiber optics to satellites to broadcast. In addition, this grant-making program will give special consideration to public broadcasting services and facilities available to, operated by, and owned by minorities, women and underserved populations. It also will enhance the capability of existing public broadcasting entities by continuing the ability of NTIA to finance upgrading and improvement of existing facilities. This bill authorizes $35 million for fiscal year 1995 and 1996 to carry out this program.

Second, this bill authorizes NTIA to establish the Telecommunications and Information Infrastructure Program, a pilot project program that will promote the widespread availability of advanced telecommunications to health care providers, educational institutions, and State and local governments. This section is designed to enhance the delivery of diverse social services to the public through interconnection, and through the formation of a nationwide, high-speed, multimedia, interactive infrastructure.

Third, this bill transfers the National Endowment for Children's Educational Television, a grant program created under the Children's Television Act of 1990, to the NTIAO Act, where it can continue to be administered by the NTIA. This bill authorizes $6 million each for fiscal years 1995 and 1996 for the Endowment.

This bill also creates clearinghouses for telemedicine and distance learning at NTIA to collect and analyze information on which programs are most efficient. These clearinghouses will enable government grant administrators as well as hospital and school administrators all across the country to share ideas and suggestions on the different ways the health care and educational communities can benefit from the information infrastructure.

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There I would like to particularly note the work of the gentleman from Oklahoma [Mr. SYNAR] and the gentleman from Washington [Mr. KREIDLER], who have helped to give some shape and direction to this new path that we are taking in the delivery of information services.

This bill also directs the NTIA to conduct a six month study to identify and make recommendations concerning the use of satellite technology to bring educational programming to Africa. This provision, which I wholeheartedly support was offered by our colleague JACK FIELDS in memory of the late Mickey Leland, who dedicated his life to bettering the lives of people all around the world.

Finally, this bill authorizes $28 million for the administration and salaries of NTIA each for fiscal year 1995 and 1996.

I urge all members to join me in supporting this critical component of an information infrastructure program.

The gentleman from Michigan [Mr. DINGELL], chairman of our full committee, and I, and all of the other members on the Democratic side give our wholehearted support to this legislation. We have worked it out in a bipartisan fashion, as usual, in the tradition of the Telecommunications and Finance Subcommittee. I want to compliment the gentleman from Texas [Mr. FIELDS] and the ranking member, the gentleman from California [Mr. MOORHEAD], for their work.

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

Mr. FIELDS of Texas. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I rise to urge my colleagues to join me in supporting H.R. 2639, the Telecommunications Infrastructure and Facilities Assistance Act of 1993.

This bipartisan legislation reauthorizes the National Telecommunications and Information Administration [NTIA] for fiscal years 1995 and 1996.

NTIA is the telecommunications policy advisory agency in the executive branch. As such, NTIA formulates policy to support the development and growth of the telecommunications, information and related agencies. Among its duties, NTIA coordinates and monitors policy initiatives in international telecommunications, information services, spectrum management, and other important areas.

NTIA played an integral role in developing the comprehensive spectrum management package passed by Congress earlier this year. The communications licensing and spectrum allocation improvement act was a bipartisan initiative which was incorporated in the Omnibus Budget Reconciliation Act and which required the Department of Commerce to identify 200 megahertz of Government spectrum to be reallocated for use by the private sector. As a result of this initiative, spectrum resources will be available to accommodate emerging technologies for use by the American people.

H.R. 2639 also establishes a infrastructure development program to be administered by NTIA. This program will award grants to nonprofit organizations and State and local governments to assist in the development of a national advanced communications infrastructure for their services.

Mr. Speaker, I would note that this program should serve only to complement private sector development of the communications infrastructure. As recent market event have dramatically demonstrated, the private sector is willing, ready and able to make the investment necessary to bring an advanced communications highway into reality. The Government's primary role should be to create as competitive environment as possible for this investment to take place.

This legislation also replaces the Public Telecommunications Facilities Program with a new grant program aimed at upgrading the facilities of public broadcasting services and reauthorizes the National Endowment for Children's Educational Television Program.

Finally, this legislation requires the NTIA to conduct a study of the feasibility of establishing a satellite-based educational network to provide educational programming to African children. Mr. Speaker, this program has special significance because it will be offered in memory of one of our friends and colleagues, Mickey Leland, who worked tirelessly on behalf of the children of Africa.

Mr. Speaker, I want to thank the committee chairman, Mr. DINGELL, the subcommittee chairman, Mr. MARKEY, and their staffs for their work on this legislation. I urge my colleagues to support H.R. 2639.

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

Mr. MARKEY. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. KREIDLER].

Mr. KREIDLER. Mr. Speaker, I thank the gentleman for allowing me

time to speak on this outstanding bill. I first must congratulate Mr. MARKEY, Mr. FIELDS, and all the members of the subcommittee for bringing this bill to the floor, and I urge my colleagues to support it.

H.R. 2639, the Telecommunications Infrastructure and Facilities Assistance Act, reflects a serious commitment to the development of useful telecommunications technologies. The bill will help schools, doctors, public broadcasters and others to bring new services and information to American citizens.

I am particularly interested in increasing access to education through distance learning programs, and am pleased to see that the act strongly supports the development of these programs.

To provide additional support to these programs, the full committee adopted my amendment to establish an information clearinghouse on distance learning at the NTIA. The clearinghouse would assist distance learning providers with technical information about what works and what doesn't, and to help the NTIA make judgments about feasible and cost-effective technologies.

Mr. Speaker, it is time to bring the information age to the classroom. This bill will help us do just that, and I again urge my colleagues to support it.

□ 1650

Mr. FIELDS of Texas. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MOORHEAD], the ranking Republican on the full Committee on Energy and Commerce.

Mr. MOORHEAD. I thank the gentleman for yielding this time to me.

Mr. Speaker, I urge my colleagues to support H.R. 2639, which authorizes the National Telecommunications and Information Administration [NTIA] for fiscal years 1995 and 1996.

I congratulate the chairman of our subcommittee, the gentleman from Massachusetts [Mr. MARKEY], and the ranking Republican on the subcommittee, the gentleman from Texas [Mr. FIELDS], for their work in bringing this legislation to the floor of the House.

Mr. Speaker, last year, Congress codified NTIA's authority as the primary advisory agency in the executive branch on telecommunications policy. As such, NTIA is responsible for developing policy initiatives for domestic and international telecommunications; for managing the use of radio spectrum by the Government; and for performing research in the telecommunications sciences.

In addition to reauthorizing NTIA, this legislation establishes a infrastructure grant program to assist in the development of a national telecommunications and information infrastructure. While this program cannot substitute for the development of a national communications highway by the private sector, it is hoped that it will assist educational institutions and health care providers gain access to this highway.

This legislation also replaces the public telecommunications facilities program with a new grant program to maintain and upgrade the facilities of public broadcasting services.

This legislation also reauthorizes the National Endowment for Children's Educational Television Program which supports television programming projects which will enhance the education of our Nation's children. In addition, this legislation directs the NTIA to conduct a 6-month study to identify resources which could be used to develop a satellite-based educational network to provide programming to the children of Africa. This program would be offered in memory of the late Congressman Mickey Leland.

Mr. Speaker, I urge my colleagues to support H.R. 2639.

Mr. MARKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma [Mr. ENGLISH].

Mr. ENGLISH of Oklahoma. I thank the gentleman for yielding this time to me.

Mr. Speaker, I thank the gentleman for bringing this legislation to the floor today—legislation which truly takes a giant step forward in addressing the need for an advanced telecommunications infrastructure throughout America.

As the gentleman knows, I am very concerned about the lack of a modern telecommunications system in the rural areas of this country. Studies have shown that if rural communities are going to have a chance to survive economically, they must have a modern telecommunications system in place. In other words, we need a universal modernization effort to take place over the next few years if we are going to have any impact at all on our small rural towns.

Quality health care is no exception to the burdens facing our rural communities. Over the past few years, we have seen the growing benefits afforded by telemedicine. I am pleased to see that this bill establishes a clearinghouse for both telemedicine and distance learning in an effort to trace the growing number of unique and innovative programs being implemented in our country today. I also appreciate the report language which accompanies this bill that spells out the need for the NTIA to pay special attention to rural areas when selecting recipients of these grants.

Just for the record today, I would like to confirm my colleague's desire to have the NTIA seek to fund projects involving the application of telemedicine technology in rural areas.

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. ENGLISH of Oklahoma. I yield to the gentleman from Massachusetts.

Mr. MARKEY. I thank the gentleman for yielding.

Mr. Speaker, I would like to commend the gentleman for his commitment to this issue, and I agree that rural telemedicine projects, which the gentleman from Oklahoma is in the forefront of, advocating as an indispensable part of laying the foundation for this information highway as it reaches out to rural America and guarantees that they have access to the communications networks to provide medicine in the most rural parts of the country, should be covered.

Of course, they would have to pass the intense review of the NTIA, but these are the kinds of projects that the NTIA is authorized to fund under this bill, and I am sure will, in fact, receive the highest consideration.

Mr. ENGLISH of Oklahoma. I thank the gentleman for his comments.

Mr. FIELDS of Texas. Mr. Speaker, I have no further requests for time. Let me just say in closing I urge all of my colleagues to support this piece of legislation. Not only is it a good piece of legislation, it is the right legislation. What it in essence is doing is helping to prime the pump for the telecommunications revolution about which the chairman talked earlier.

I personally believe that we are going to see more telecommunications innovation and development in the next 7 years between now and the year 2000 than we as a country have seen this entire century.

So we feel that this is an important piece of legislation, priming the pump, so to speak.

Also, on our side of the aisle we feel very comfortable knowing much of this effort, if not all, will be directed by the Assistant Secretary of Commerce, and the Administrator for NTIA, the Honorable Larry Irving, who is a friend on both sides of the aisle and a person who we think is competent in helping lead us in that direction toward a true revolution.

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

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume for just about 30 seconds in order to say to the gentleman from Texas that including this Mickey Leland project in this legislation assures that there will be a memorial in this telecommunications area that will live on.

It also assures that Larry Irving, as the gentleman from Texas pointed out, who used to be Mickey's legislative staff director, who later served as chief telecommunications counsel for our subcommittee and is now the head of the NTIA, will be there to ensure that the intent of the gentleman from Texas

and the intent of the full Committee on Energy and Commerce, each one of us, from Chairman DINGELL to CARLOS MOORHEAD and all Democrats and Republicans want to see this memorial to Mickey built. This legislation in that one little provision captures the national and international implications of this telecommunications revolution, what is possible and what we are helping to lay the foundation for as the Members of this House vote on this legislation here today.

Mr. HASTERT. Mr. Speaker, I rise to voice my strong support for H.R. 2639, the Telecommunications Infrastructure and Facilities Assistance Act of 1993. Part D of this bill would establish the Telecommunications and Information Infrastructure Program within the National Telecommunications and Information Administration [NTIA]. The purpose of this program is to promote widespread availability of advanced telecommunications technologies to the public, including educational institutions and health care providers, and support through the interconnection and improvement of existing facilities, the formation of nationwide, high-speed, interactive infrastructure of various information technologies.

For the illumination of Members, I would like to include in the RECORD a copy of testimony submitted by Morteza A. Rahimi, vice president and professor of engineering and computer science at Northwestern University to the telecommunications and finance Subcommittee on the merits of this bill.

STATEMENT ON CAPABILITIES AT NORTHWESTERN UNIVERSITY AND A CHICAGO-AREA INFORMATION INFRASTRUCTURE CONCEPT

(By Morteza A. Rahimi)

Mr. Chairman and other distinguished Members of the Subcommittee. I am submitting written testimony in support of H.R. 2639 to be inserted in the official record on behalf of Northwestern University.

I consider H.R. 2639 an important vehicle for transferring much of what is being developed in our leading universities to the rest of the society. While the emphasis in many earlier government programs has been on research and development of new technology, the program being considered emphasizes the deployment of existing technologies. If wisely administered, this program will encourage the integration of knowledge and technology developed at universities for application to broad issues of national concern, particularly in underserved areas. To demonstrate this, I will provide the committee with a wide range of development, technologies, and collaboration that have shaped Northwestern programs. These programs already support a number of partnerships with health care providers, k-12 education, government agencies, and businesses. I will then present a general description of how Northwestern University hopes to expand and build upon these services, using telecommunication and networking, to serve many more people in the Chicago area.

Northwestern University has recently expanded its network to provide high-speed access to a rich distributed computing environment to all members of the University communities in Chicago and Evanston. This network has high speed links to the Internet and to commercial networks, making it possible to share resources and capabilities beyond our campus boundaries. We are exploring ways to extend the University network, using existing commercially available telecommunication means, to include our current and future educational, industrial, and medical partners in the Chicago area. The expanded network will provide us all with better connection to the Internet and to emerging public network services. We plan to include our sister universities, libraries, museums, and service agencies in the Chicago area.

We hope to expand collaboration between our medical school and other health care support groups to improve regional health care. We hope to use this networking capability to expand our collaboration with our industrial and service partners. And, we hope to use the network to expand our involvement with Greater Chicago schools and to deploy the resources of our industrial partners to improve science and technology training throughout the area.

A few notable examples of collaborative and developmental efforts of University organizations are given below. The varied activities, from learning visualization to telemedicine, are the bases for our present telecommunication-based activities and could be the bases for possible activities supported under H.R. 2639.

The Learning through Collaborative Visualization Project, led by Professor Roy Pea, is attempting to transform science learning to resemble more closely the authentic practice of science. The project is using wideband commercially available ISDN networks to join high school students with other students at remote locations in collaborative work groups. Through these networks, students will communicate with University researchers and other scientific experts. Participating students study atmospheric and environmental sciences through project-based activities. Using state-of-the-art scientific visualization software, specially modified to be appropriate to a learning environment, students have access to the same research tools and data sets used by leading-edge scientists in the field. The project will provide students with a "collaboratory" workbench that includes desktop video teleconferencing; shared software environments for remote, real-time collaboration; access to the resources of the Internet; a multimedia scientist's "notebook"; and scientificvisualization software. In addition to providing new technology, the project is working closely with teachers at participating schools to develop new curricular and new pedagogical approaches that take advantage of project-based science learning. Faculty from the School of Education and Social Policy as well as from the Institute for Learning Sciences are working on this project. It is supported by a grant from the National Science Foundation. Project partners include the National Center for Supercomputing Applications, the Technical Educational Research Center, and The Exploratorium (science center), Ameritech, Apple Computer, Bellcore, Science Kit/Boreal Labs, and SUN Microsystems.

The Total Quality School Project, led by Professor Stuart Greenbaum, is a project in the Kellogg Graduate School of Management. The assumption of the project is that school administrators in our core city are as capable as business managers if given the same opportunity to learn management techniques. Therefore, the project uses the facilities and resources of the Kellogg School, normally used to train corporate leaders, to train Chicago school administrators on total quality management. The funding for the program comes partially from the University and partially from business partners who "adopt a school."

The Institute for Learning Sciences, led by Professor Roger Schank, was established at Northwestern University in 1989. The goal of the Institute is to create innovative, computer-based learning environments, based on leading-edge research in cognitive sciences and artificial intelligence, that exploit developing theories about the way humans actually learn, remember and reason. The teaching and learning systems being built employ sophisticated software technologies in compelling, interactive, multimedia systems. The Institute is intended to serve as a catalyst for change in school systems through software that alters how and what children learn. Research and development is conducted by project teams, representing several areas of expertise such as natural language processing and interface design, instructional design, and computer and multimedia technologies. The faculty is drawn from several university departments, including Electrical Engineering and Computer Science, Psychology, and the School of Education and Social Policy.

Northwestern's Medical School and Northwestern Memorial Hospital are now investing in an advanced information network to connect their various facilities and will then extend this network to select community-based clinics and private physician offices in an effort to link ambulatory and inpatient care, education and research.

The Weinberg Medical Informatics Training Center was conceived and designed to prepare today's medical students for practice in the 21st Century by introducing them to Medical Informatics, the integration of Information Management and Decision Science. The Weinberg computer-equipped classroom serves as a major resource for training medical students, post-M.D. trainees, faculty, alumni, practicing physicians, and other health care professionals in the use of such education resources as lecture presentation programs and clinical simulations, in the use of such productivity tools as word processing and spreadsheets, and in the use of decision support tools such as decision trees and expert systems. It is also a classroom where computer-based interactive programs have been integrated into course curricula such as in physiology, neuroscience, and statistics. The Weinberg Center has also been the site of Northwestern's participation in the evaluation of computer-based student assessment being developed by the National Board of Medical Examiners.

The Center for Information and Telecommunication Technology, led by Professor Albert Rubenstein, is a multidisciplinary research center that does basic and applied research on a wide range of topics. Typically, CITT studies are concerned with the stage before commercialization. Projects concentrate on areas in which the capabilities of CITT members provide a comparative advantage, including design and performance measurement for computer and communications networks, personal communications systems and wireless information networks, users' needs for intelligent systems, automatic document processing, image processing, database management, and the economics and organization of information technologies in the service sectors. CITT is based in Northwestern University's Robert R. McCormick School of Engineering and Applied Science. Faculty members from several McCormick departments and other schools at Northwestern participate in CITT research and related activities. CITT partners

come mainly from manufacturing and the service sector, such as hospitals and insurance companies.

The campus information service, NUInfo, provides information about campus services and an electronic calendar of events. Individual departments have established their own information servers to provide current departmental information to their faculty and student. NUWho is an electronic directory that is automatically updated each month and provides the most recent information about Northwestern faculty, staff and students. Students use e-mail clients software to receive and send electronic mail. A server of public domain and site license software is available. This server includes various networking software that enables faculty, students and staff to take advantage of the resources available to them on the Internet.

The Northwestern Library has been a leader in the use of computers to provide services to the Northwestern Community. The NOTIS/LUIS electronic catalog system, which Northwestern developed and installed in over 100 universities, is now a commercial product. The Library has begun to provide new types of services and information electronically across the campus network. Databases that can be accessed from the campus include Science Citation Index, ERIC, Dissertation Abstracts, Newspaper Abstracts, and Grolier's Electronic Encyclopedia. The Oxford English Dictionary (OED) is available for campus network access. It uses PAT to enable users to perform sophisticated searches for words or phrases in text collections and display them on screen in context. The Library has recently made the Perseus Project's electronic collection of ancient Greek texts and graphics on the campus network. The Galter Health Sciences Library provides network access to NUMed resources, which includes the Medline database.

The Instructional Technology Group works with departments and schools to support and develop ways of integrating technology into instruction. Electronic mail, list services, and news programs are being used to support the interaction between faculty and the students they teach outside of the normal class time. Seven new electronic classrooms have been installed on campus over the last year. These classrooms provide computer-controlled audio and video equipment (laser disc, VCR, CD-ROM) and access to the campus network. The podiums in these classrooms includes a Macintosh and a PC system, or a UNIX workstation. Faculty can also connect their own computer or laptop for a class presentation.

A Network Operations Center has been established to monitor the network and to guarantee dependable services. The information technology staff work with departments and schools on the design and installation of network connections and on the creation of Local Area Networks (LANs). The staff is also available to provide ongoing technical support of established network connections and LANs throughout the year. The Distributed Computing Group has also been created to establish distributed computing environment across the University Network that will support new network services to users and access to a new level of computing resources. A Network Applications Development Group as been created to develop client/server applications that benefit instruction, research, and administrative computing at Northwestern. The University Network was designed not only to meet today's needs to provide options for smooth transitions to future networking and computing technologies that will offer integrated data, voice and video services across a single network.

To accomplish the tasks necessary to expand these services to the entire community in the Chicago area, we propose to use our networking capabilities and the computational powers available to us and to our partners to create a common platform for the support of diverse educational, health care, and business support applications and to create an easy-to-use electronic environment for collaboration.

We hope to pursue four objectives:

Strengthen and expand university support of schools in the Greater Chicago area.

In 1992 our faculties participated in a variety of projects in K-12 science education. A collaborative network environment would greatly enhance the effectiveness of faculty in education, science, engineering, and business in working with local schools.

Deploy the science and technology capabilities of Greater Chicago industries in support of K-12 science education.

There are thousands of scientists and engineers employed by local industry who could bring their knowledge and interest to bear upon improving science education, teacher education, and learning research. The enhanced networked environment would facilitate their involvement in area schools by supporting remote collaborative efforts with students, teachers, and researchers.

Expand opportunities for collaboration among medical schools and their health care provider partners.

The collaborative capabilities and shared resources of an expanded network have the potential to enhance research, to improve medical services, to increase health care efficiencies, and to support remote clinics in underserved areas.

Strengthen and expand the University's partnership with manufacturing and service industries.

In 1992 our faculties received over $22,000,000 from business and industry in support of collaborative projects. The envisioned collaborative network environment will provide new possibilities for collaboration between local universities and business, including expanded multi-disciplinary projects.

To accomplish the above objectives, we propose to:

Deploy the existing telecommunication infrastructure to link us to our educational, medical and industrial partners.

The combination of the Internet and public network services will make it possible effectively to share resources and data, to exchange ideas and information, and to collaborate with partners in a variety of professions at different locations.

Establish a collaborative environment through electronic mail, electronic conferencing, resource sharing, and other software.

We are integrating communication and collaborative tools for our internal use. These tools could be extended to K-12 schools, health care facilities, and industrial partners in order to encourage interaction across a wide range of projects.

Identify and support important applications that can benefit several professions.

Professions, regardless of their field, have many common software needs. Visualization software, for example, is used throughout science and engineering as well as in education and business. Adopting a common set of tools across different platforms would facilitate collaboration. It would provide a conceptual bridge between different disciplines that can stimulate the development of new approaches and solutions to problems.

Create a model for the support of work in a network setting that can be emulated elsewhere.

Developing a network model for collaboration will substantially enhance the computational resources available to users and improve their productivity. The resulting environment would distribute computing resources across the network and offer individuals access to the combined resources of networked workstations, large and small servers, and remote super computers that far exceed the capabilities normally available to any single individual or group.

Create a network environment that enables industrial scientists to provide support for K-12 science education.

It would be unrealistic to expect industrial scientists to spend a portion of their time away from their offices to support K-12 instruction. In a networked environment, however, they could participate in the development of materials for instruction, act as consultants to teachers, enable apprenticeships for learning science through doing science, and be resources and role models for the students from the desktop computers in their offices.

Create a team of support personnel to integrate existing software and to develop software needed to support activities across different disciplines.

By defining a standard architecture across the network, a single team will be able to develop common tools that would serve the diverse needs of collaboration between universities K-12 education, health care, and industry. The effort could provide a national model for the deployment of existing technologies in various disciplines for multi-disciplinary purposes.

Provide support to teachers, scientists, engineers, and other professionals so that they can devote a portion of their time to develop concepts and to participate in collaborative efforts.

A mechanism will be sought out to provide release time for participants so they can contribute to the evolution of projects. The collaborative environment will allow us to take advantage of people's limited time more effectively.

Evaluate the effectiveness of the collaborative network environment to support learning, health care, and economic development.

We will develop ways to evaluate the results of our activities so that we can demonstrate what is effective and what is not, and thus, provide a "total quality" approach to uses of networked environment in support of these diverse activities.

In conclusion, Mr. Chairman, Northwestern is actively using information technology to support her varied collaborations with many other organizations in the Chicago area. We welcome your initiative to make resources available that could be used to expand these Northwestern University activities in Chicago and could be used to support other organizations interested in undertaking similar projects elsewhere in the United States.

Thank you for the opportunity to submit this statement to the subcommittee.

Mr. SYNAR. My Speaker, I rise today in support of H.R. 2639, legislation that will bring America's diverse social service needs in line with 21st century technology.

In 1956, the Federal Government made a commitment to building a national interstate

highway system, in order to provide better commerce and recreational opportunities for all Americans. One of the guiding principles at that time was that no one, whether they lived in Nowata, OK, Malden, MA, or Dearborn, MI, would be left without access to the Nation's evolving transportation system.

It is in this same spirit that Congress must champion the current private sector effort to build a telecommunications infrastructure so that we have a system linking to citizens to information that will enhance their lives and health. The possibilities are enormous—from schoolchildren in Stilwell, OK, learning college calculus by satellite to doctors from the Mayo Clinic diagnosing the illness of a patient hundreds of miles away at a hospital in northeastern Oklahoma.

These types of projects should be developed through public-private partnerships that are catalyzed by grants to State and local governments, hospitals, museums, libraries, and schools. The Telecommunications and Information Infrastructure Grant Program outlined in NTIA's expanded authorizing legislation will fund network projects and last mile linkages so that the promise of the Nation's information superhighway is brought to citizens in both rural and urban areas.

One of the most important applications of these networks will be in the area of telemedicine. The capability of transfer medical data and images electronically will be a critical part of any reform proposal to deliver preventive and diagnostic medical services to rural Americans in a cost-effective way. That is why this legislation mandates that the Secretary of Commerce create and maintain a clearing house on state-of-the-art telemedicine activities and urges the Department to focus its efforts on funding appropriate NTIA grants in the area of rural health care delivery.

In addition, I am pleased to note that this bill also reauthorizes NTIA to continue its programs in the areas of public broadcasting and children's educational television over the next 5 years. These grant programs leverage Federal dollars to maintain our public broadcasting facilities so that vital educational and cultural programming can flourish in the future.

I urge my colleagues to support this legislation, so that we can take concrete steps in bringing the best of telecommunications technology and its real-time, real-life benefits to Oklahomans and Americans throughout our Nation.

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

The SPEAKER pro tempore (Mr. ORTON). The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 2639, as amended.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 2639, as amended, the bill just considered and passed.

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

There was no objection.

TRIBUTE TO ERNEST PETINAUD

By unanimous consent, Mr. MONTGOMERY was allowed to proceed for 1 minute and to revise and extend his remarks.

Mr. MONTGOMERY. Mr. Speaker, one of our most respected retired employees on Capitol Hill died yesterday. I am speaking of Ernest Petinaud, who was the maitre d' in the House Members dining room for many, many years.

Ernest's home was engulfed in flames Saturday, and Ernest lost his life in that house. I would like to point out something about Ernest Petinaud.

Mr. Speaker, Ernest was from Panama. He lived for 88 years. He came to work on the Capitol Hill, he came when he was just 16 years old and worked as a busboy, as a waiter, became maitre d' when the House front extension made room for the new concession of the congressional dining room.

He worked in the Capitol for over 40 years.

Mr. Speaker, the Members dining room is named the Petinaud Room after Ernest.

Mr. Speaker, we do not have funeral arrangements, but we will make those available when we have that information.

Ernest died at the age of 88, an old friend of ours.

Mr. EMERSON. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Missouri.

Mr. EMERSON. I thank the gentleman for yielding to me.

Mr. Speaker, I want to associate myself with the remarks of the gentleman from Mississippi. I am really distressed to hear this information. I have not heard it before.

Mr. Speaker, I have known Ernest probably in excess of 30 years; knew him well, joked with him, traded stories with him. Mr. Speaker, this is most distressing news. I join the gentleman from Mississippi [Mr. MONTGOMERY] in expressing sorrow about this tragedy.

Mr. MONTGOMERY. I appreciate the remarks of the gentleman from Missouri.

□ 1700

TRIBUTE TO REAR ADM. MICHAEL L. BOWMAN

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

Mr. SKELTON. Mr. Speaker, I take this opportunity to recognize and say farewell to a fellow Missourian who has served ably and well over the past 21 months as the Navy's Commander of Legislative Affairs. That is Rear Adm. (lower half) Michael L. Bowman.

During his tenure, he has provided timely support and accurate information on Navy and Marine Corps plans and progress. His reports have enabled the Defense agencies and Congress to work directly together to ensure the modern, well-trained and well-equipped naval forces remain strong for our country. Admiral Bowman has opened and maintained lines of communication with Members and staff alike which fueled an atmosphere of mutual respect and common purpose.

A veteran of Vietnam and leader of Air Group 1 in Desert Storm, this highly decorated combat veteran now goes on to become the commander of Carrier Group 6 based in Mayport, FL. I know all the Members of this body join me in wishing Adm. Michael L. Bowman the very best.

COMMENDING AMERICAN AIRMEN HELD AS PRISONERS AT BUCHENWALD CONCENTRATION CAMP DURING WORLD WAR II

Ms. BYRNE. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the concurrent resolution (H. Con. Res. 88) recognizing and commending American airmen held as prisoners of war at the Buchenwald concentration camp during World War II for their service, bravery, and fortitude and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore (Mr. ORTON). Is there objection to the gentlewoman from Virginia?

Mrs. MORELLA. Reserving the right to object, Mr. Speaker, as sponsor of this legislation, I rise in strong support of House Concurrent Resolution 88.

Mr. Speaker, I yield to the gentleman from Mississippi [Mr. MONTGOMERY] who chairs the Veterans' Affairs Committee and who is the chief sponsor who introduced this resolution.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentlewoman from Maryland for yielding to me.

Mr. Speaker, I rise in support of this resolution. I am proud to be the author of this piece of legislation, which recognizes and commends the American survivors of the Buchenwald concentration camp in World War II.

I want to thank the committee chairman, the gentleman from Missouri [Mr. CLAY] and the gentlewoman from Maryland [Mrs. MORELLA] for taking such a big interest in this legislation.

I think it is of great interest to the Speaker and other Members. I would

briefly like to explain what the resolution does, and I want to thank the gentlewoman from Virginia [Ms. BYRNE] for bringing the resolution so quickly to the floor.

Eighty-one American military men in the Army Air Force and 92 other allied fliers were held as prisoners. These prisoners were considered as spies because they were captured in civilian clothes.

Since the end of World War II, the Allied nations of Canada, Australia, and New Zealand have recognized their airmen who where in Buchenwald. In addition, the Danish Government has recognized the 1,700 Danish policemen who also were at Buchenwald with our American airmen.

It is only fitting that our country pays tribute with this recognition. The resolution requests the President to issue a proclamation to recognize and commend these gallant airmen for their bravery and fortitude in surviving the horrors of the Buchenwald concentration camp. I am proud to have introduced the resolution and urge its passage.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I appreciate this opportunity to say a few words regarding House Concurrent Resolution 88.

I would also like to express my appreciation to the chairman of the Committee on Veterans' Affairs, Mr. MONTGOMERY, and the dedicated work by Chairman MONTGOMERY's staff, Al Bemis, for introducing this legislation which would recognize and commend the American airmen held as prisoners of war at the Buchenwald concentration camp during World War II.

Eighty-one American military men in the Army Air Force, along with 92 other Allied fliers, were held as prisoners. They were considered spies because, when they were captured in 1944, they were dressed in civilian clothes. These airmen did what they were trained to do: They tried to elude the enemy and resist capture, and were trying to make their way back to their units. In doing so, many of the airmen—who were over France at the time—met the Resistance and wore civilian clothes. The capturing army considered the Allied personnel in civilian clothes as saboteurs and spies. The captured airmen were first sent to Fresnes Prison in Paris and then to Buchenwald.

Since then, the Allied Nations of Canada, Australia, and New Zealand have honored their airmen who were imprisoned in Buchenwald. The Danish Government has erected a museum honoring the 1,700 Danish police officers who were imprisoned with the Allied airmen. This is the first opportunity that we have had in our country to recognize these American airmen.

Mr. MONTGOMERY has shared with us a communication written by one of the survivors who states in his letter:

Buchenwald was a real place with real atrocities to mankind. What is unreal is the unwillingness of the U.S. Government to recognize that American airmen were in fact imprisoned in Buchenwald. Those of us wounded in battle are embarrassed when seeking VA medical assistance to see reflected in our V.A. records the statement, "Claims he was imprisoned in Buchenwald."

Chairman MONTGOMERY has said that these Allied airmen who were held as prisoners of war displayed faithful service, personal bravery, and exceptional fortitude and deserve to be honored. Passing this legislation, Mr. Speaker, will help us to correct some of the historical gaps in America's intervention in World War II and, recognize the sacrifices made by our own brave military personnel.

I urge my colleagues to support this measure.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 88

Whereas, during World War II, 173 Allied airmen were captured by the enemy and held as prisoners of war at the Buchenwald concentration camp in Weimar, Germany;

Whereas the captured airmen included 81 Americans, 27 Canadians, and 65 Britons, Australians, and New Zealanders;

Whereas the facts and circumstances of their confinement are amply documented in the official records maintained by the National Archives and Records Administration;

Whereas a report from the International Red Cross concerning Stalag Luft III in Sagan, Germany, mentioned 6 American Airmen held at Buchenwald, including 1 whose name does not appear on the lists maintained by the National Archieves;

Whereas, since the liberation of Buchenwald in 1945, numerous personal memoirs, scholarly books, and articles have been published describing the conditions at the concentration camp;

Whereas this extensive documentation records the extraordinarily inhuman treatment, deprivations, and personal suffering inflicted on prisoners of war and other inmates at Buchenwald; and

Wheras Allied Governments and veterans organizations outside the United States have granted special recognition to their citizens and members who were held as prisoners of war in World War II concentration camps: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) recognizes and commends the valiant American airmen held as prisoners of war at the Buchenwald concentration camp during World War II for their faithful service, personal bravery, and exceptional fortitude; and

(2) requests that the President issue a proclamation recognizing and commending the service, bravery, and fortitude of the American airmen.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

NATIONAL GOOD TEEN DAY

Ms. BYRNE. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 75) designating January 16, 1994, as "National Good Teen Day" and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

Mrs. MORELLA. Reserving the right to object, Mr. Speaker, and I do not object, I yield to the gentleman from Ohio [Mr. TRAFICANT], who is the chief sponsor of House Joint Resolution 75.

Mr. TRAFICANT. Mr. Speaker, I thank the gentlewoman from Maryland for yielding to me.

Mr. Speaker, I rise in support of House Joint Resolution 75, designating January 16, 1994, as "National Good Teen Day." I would like to thank Chairman CLAY and ranking member MYERS of the Post Office and Civil Service Committee for their assistance in quickly bringing this important piece of legislation to the floor.

I introduced this bill earlier this year because I believe that a national day should be created to focus on the positive qualities in America's youth. Last year, President Bush signed into law this initiative, and January 16, 1993, was declared "National Good Teen Day."

The concept of Good Teen Day was created by Mr. Robert Viencek, an instructor of English at Salem High School in my district. He selected January 16 as Good Teen Day because Abraham Lincoln, our 16th President, was quoted as saying, "When you look for the good in man, you'll always find it." Viencek says that the 16th is, quote, "A special year in the lives of teenagers, it is the age when many young people start to drive and start to work—it is also the middle date of the seven teen years—13–19." Salem City schools designated January 16, 1992 as "Good Teen Day." The city of Salem, OH, as well as the Ohio House of Representatives, have extended recognition to Salem City Schools for this important commemoration.

Mr. Speaker, our Nation's teenagers represent an important part of our society. The many physical and emotional changes and character-building experiences that teenagers go through are an important concern. It is often easy to stereotype teenagers as either those who have problems or those who excel. Teenagers should not simply be recognized for their intelligence, abilities, skills, and talents, but rather for the good which is inherent in all human beings.

Teenagers are the future of our great country. There are more than 24 million teenagers in the United States according to the latest census. Therefore,

I believe that Mr. Viencek's idea should not be limited to one locality, but expanded to the national level.

Mr. Speaker, I again thank Chairman CLAY and ranking member MYERS for their help in honoring our Nation's teenagers. I would also like to thank 250 of my colleagues who saw the merits of "National Good Teen Day" and cosponsored the bill.

Mrs. MORELLA. Further reserving the right to object, Mr. Speaker, I want to thank the gentleman for introducing the resolution and for speaking so positively about it.

It is true that we must recognize the good that teenagers do and the inspiration that we as adults are to them.

I did not realize until the gentleman mentioned it that the 16th was chosen because of the 16th President, and the 16th President, Abraham Lincoln, also said, "Bring out the better angels of our nature."

I think we all have a responsibility to look to our teens, knowing that they are going to be our future and give them the opportunities to bring out the better angels of their nature.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 75

Whereas Salem City Schools in Salem, Ohio, have proclaimed January 16, 1992, as "Good Teen Day";

Whereas there are more than twenty-four million teenagers in the United States according to the 1990 Census;

Whereas our Nation's teenagers represent an important part of our society, and the many physical and emotional changes and character-building experiences which teenagers go through are an important concern;

Whereas it is easy to stereotype teenagers as either those who have problems or those who excel;

Whereas teenagers should not simply be recognized for their intelligence, abilities, skills and talents, but rather for the good which is inherent in all human beings;

Whereas as unique individuals, teenagers are encouraged to esteem the good as well as the potential that is within each of them;

Whereas a day should be created to focus on the positive qualities in America's youth; and

Whereas teenagers are the future of this great country: Now, therefore, be it

Resolved by the Senate and Housing of Representatives of the United States of America in Congress assembled, That January 16, 1994, is designated as "National Good Teen Day," and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day by recognizing the teenagers of the United States and by participating in appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1710

NATIONAL FAMILY WEEK

Ms. BYRNE. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 79) to authorize the President to issue a proclamation designating the week beginning on November 21, 1993, and November 20, 1994, as "National Family Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. ORTON). Is there objection to the request of the gentlewoman from Virginia?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I yield to the gentleman from Indiana [Mr. MYERS] who is the chief sponsor of House Joint Resolution 79.

Mr. MYERS of Indiana. Mr. Speaker, I thank the gentlewoman from Maryland [Mrs. MORELLA] for yielding, and I thank her and the gentlewoman from Virginia [Ms. BYRNE] for bringing this action to the floor today.

A number of years ago, Mr. Speaker, when I first came to Congress, a schoolteacher in Indiana came forth with the idea that we should honor the family, and how appropriate that is today. All of us are here because we have families, and most of us have families that we respect. At a time when, particularly, young people find it difficult to adjust themselves into society, there is something wrong with its fabric, and maybe we need to have more attention paid to the family, so it is appropriate at this time of Thanksgiving particularly that we recognize the value of the family, the importance of the family, to our American way of life, and the things we kind of take for granted are there because our families have given those things to us.

So, Mr. Speaker, today I am thankful that this bill has been brought to the floor. I hope someday we will not have to do this on an annual basis, that we can recognize the family as an institution, a vital institution, a vital part of our life in this country, and we will not need to do this on an annual basis. We will do it every year without having to have this legislation. But in the meantime I say, "Thank you."

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I point our that this resolution, thanks to the sponsor, has been around for 22 years, and today we are going to make it 23 and 24 years because this is going to designate the week beginning November 21, 1993, and November 20, 1994, as National Family Week.

Much has been said about the family and its different configurations, but there is no doubt that, whether it is a single head of household, whatever kind of family it is, the family unit is critical to the health and welfare and strength of our Nation. It is through the family that values occur, and, where there is not the outward semblance of family, I think we, as a community, have a responsibility to try to provide that.

So, Mr. Speaker, I certainly commend the gentleman from Indiana [Mr. MYERS] for introducing this resolution, and I do hope that we remember it, not just 1 week every year, but every day of every year.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 79

Whereas the family is the basic strength of any free and orderly society;

Whereas it is appropriate to honor the family as a unit essential to the continued well-being of the United States; and

Whereas it is fitting that official recognition be given to the importance of family loyalties and ties: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the week beginning on November 21, 1993, and November 20, 1994 as "National Family Week".

The joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL CHILDREN'S DAY

Ms. BYRNE. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 139) to designate the third Sunday in November of 1993 as "National Children's Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I yield to the gentleman from the Eighth District of Massachusetts [Mr. KENNEDY] who represents my mother there and who is the prime sponsor of this resolution.

Mr. KENNEDY. Mr. Speaker, I thank the gentlewoman from Maryland [Mrs. MORELLA] for that kind introduction. The fact is that she is probably the only person that I am delighted has moved out of the Eighth Congressional District of Massachusetts so that she could represent, I think it is, the Eighth District here in the State of Maryland so that there is a little less competition up there in my home

State. But I also want to thank the gentleman from Missouri [Mr. CLAY], chairman of the Committee on Post Office and Civil Service, and the gentleman from Indiana [Mr. MYERS], who have always done such fine work on the committee, as well as the gentlewoman from Virginia [Ms. BYRNE] for her efforts in bringing this important commemorative to the floor. I very much appreciate all the time and effort that the committee spent on this issue.

Mr. Speaker, on Sunday, November 21, this country will celebrate the fifth annual National Children's Day. It is a time to honor our kids, celebrate their many triumphs, listen to their hopes and concerns, and reflect for a moment on the world they are living in and the world we are leaving them.

There is an urgent need now, to address the problems of children.

Difficult economic times have had a tragic effect on our Nation's children. There are half a million homeless children in America. Children who are living completely on their own now account for 4 percent of the total homeless population in our country.

Health care is sorely lacking for millions of American children. Eighty percent of children in low-income families have one or more medical problems that go untreated.

Child abuse and neglect have become a national heartache, and the statistics are intolerable. Forty-two out of every 1,000 children have been abused or neglected.

And that mistreatment begins a cycle of violence. Every city in this country is reeling from the staggering increase of violent crimes committed by juveniles, and it just seems to me that at a time in our country's history when the kids are under attack by so many of our Nation's problems that we need a day to celebrate the tremendous contributions that they made to this country, contributions that kids all across our Nation, as the gentlewoman from Maryland [Mrs. MORELLA] can remember from the hearings that we have had in years past as a result of the passage of this commemorative, kids that come in and testify about how they combat homelessness, how they are involved in projects to reduce hunger at the local level, how they are involved in sports, how they are involving themselves at their own schools in trying to come up with projects where they talk to other kids about the kind of violence that exists in schools, and the amounts of drugs, how kids are helping other kids by talking them out of drug abuse.

It just seems to me that at a period of time in our Nation's history where kids are so vulnerable in our society that we can take 1 day out of the year and say that we are going to honor our children, we are going to honor kids that have done special things, and we are also going to honor kids across the country. We are going to urge parents to just take an hour out of that day and spend that hour with their child reading, take them for a walk in the park, take them to a ball game, show their children that we care, and it does not just have to be their own kid. It can be their nephew or their niece. It can be a kid next door. It can just be any child that for 1 hour, for 1 day out of the 365 days of each calender year, for 1 day we can make for those kids a very special day and let them know that we, as a family, we, as a nation, honor them, that we are going to tell them that they are important, that they count, and that every one of them can make a difference.

Mr. Speaker, we need to send a message to our Nation's children that they are our greatest resource. We hear so much rhetoric in this Chamber, and yet there can be no more fundamental calling for any Member of Congress than to say that we want to have a better country for our Nation's future.

Mr. Speaker, I thank so much again the gentlewoman from Maryland [Mrs. MORELLA] for the efforts that she has made in helping me get this passed in years past and for the efforts that she has made to be at every hearing that we have had to celebrate National Children's Day. We look forward to working with her again in the future, and again I want to thank particularly the gentlewoman from Virginia [Ms. BYRNE] for her efforts at being a freshman and making this day possible to honor our Nation's kids. I thank them both very much for their efforts.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, again I want to commend the gentleman from Massachusetts [Mr. KENNEDY] for this recognition of National Children's Day. There is just no doubt that we as adults are teachers of children. They look to us as role models. They follow what it is that we say is right and good in our society, and they are so bewrought with the temptations and the problems, as has been mentioned with homelessness, with violence in the home, violence on the streets, violence in the media, with just so many problems. It is up to us as adults to provide the opportunities and to look to them, pat on the back, give them the health, give them the education, give them the values that are going to make them the leaders of tomorrow.

□ 1720

As a matter of fact, it is interesting that we have had three resolutions in a row. I know that the gentlewoman from Virginia [Ms. BYRNE], who has handled them on that side and has been so supportive, knows that they all tie in to children. We have this one, National Children's Day, which is so important, and then we had Good Teen Day, to recognize as they progress the values that these teens give in terms of helping with national service and helping in so many ways in their communities. Then we had the Family Recognition Week. So it all ties together, and I hope it is a wakeup call for all of us as we prepare for Thanksgiving to look to our children who will become teens and hope that they will become in some way a part of a family unit that we can provide.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. ORTON). Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 139

Whereas the people of the United States should celebrate children as the most valuable asset of the Nation;

Whereas children represent the future, hope, and inspiration of the United States;

Whereas the children of the United States should not be allowed to feel that their ideas and dreams will be stifled because adults in the United States do not take time to listen;

Whereas many children face crises of grave proportions, especially as they enter adolescent years;

Whereas it is important for parents to spend time listening to their children on a daily basis;

Whereas modern societal and economic demands often pull the family apart;

Whereas encouragement should be given to families to set aside a special time for all family members to remain at home;

Whereas adults in the United States should have an opportunity to reminisce on their youth to recapture some of the fresh insight, innocence, and dreams that they may have lost through the years;

Whereas the designation of a day to commemorate the children of the United States will provide an opportunity to emphasize to children the importance of developing an ability to make the choices necessary to distance themselves from impropriety;

Whereas the designation of a day to commemorate the children of the Nation will emphasize to the people of the United States the importance of the role of the child within the family;

Whereas the people of the United States should emphasize to children the importance of family life, education, and spiritual qualities; and

Whereas parents, teachers, and community and religious leaders should celebrate the children of the United States, whose questions, laughter, and tears are important to the existence of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the third Sunday in November of 1993 is designated as "National Children's Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. BYRNE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the commemorative joint resolutions and the concurrent resolution just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

PROPOSED IMPORT PROHIBITIONS AGAINST THE PEOPLE'S REPUBLIC OF CHINA AND TAIWAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 103–162)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Merchant Marine and Fisheries and ordered to be printed:

To the Congress of the United States:

On September 7, 1993, the Secretary of the Interior certified that the People's Republic of China (PRC) and Taiwan are engaging in trade of rhinoceros and tiger parts and products that diminishes the effectiveness of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Five rhinoceros species and the tiger are listed in Appendix I of CITES, which means that the species are threatened with extinction and no trade for primarily commercial purposes is allowed. Although recent actions by the PRC and Taiwan show that some progress has been made in addressing their rhinoceros and tiger trade, the record demonstrates that they still fall short of the international conservation standards of CITES. This letter constitutes my report to the Congress pursuant to section 8(b) of the Fisherman's Protective Act of 1967, as amended (Pelly Amendment) (22 U.S.C. 1978(b)).

The population of the world's rhinoceros has declined 90 percent within the last 23 years to the present level of less than 10,000 animals, and the tiger population has declined 95 percent within this century to the present level of about 5,000. Neither the PRC nor Taiwan has fully implemented the international standards established by CITES for controlling the trade in these species, and the poaching of rhinoceroses and tigers continues in their native ranges fueled in part by the market demand in the PRC and Taiwan. These populations will likely be extinct in the next 2 to 5 years if the trade in their parts and products is not eliminated.

To protect the rhinoceros and tiger from extinction, all countries and entities that currently consume their parts and products must implement adequate legislative measures and provide for enforcement that effectively eliminates the trade, including taking actions to comply with the criteria set down by CITES in September 1993 and fully cooperating with all CITES delegations. The PRC and Taiwan have made good faith efforts to stop the trade in rhinoceros and tiger parts and products, and have, since the announcement of Pelly certification, undertaken some positive legislative and administrative steps in this regard. These efforts, however, have yet to yield effective reductions in trade.

I wish to support and build on these good faith efforts undertaken by the PRC and Taiwan. At the same time, I would like to make clear the U.S. position that only effective reductions in the destructive trade in these species will prevent the rhinoceros and tiger from becoming extinct. Accordingly, I have established an Interagency Task Force to coordinate the provision of U.S. technical assistance to the PRC and Taiwan to help them eliminate their illegal wildlife trade. I have also instructed the Department of the Interior, in coordination with the Department of State and the American Institute in Taiwan, to enter immediately into dialogue with the PRC and Taiwan regarding specific U.S. offers of trade and law enforcement assistance.

Actions by the PRC and Taiwan that would demonstrate their commitment to the elimination of trade in rhinoceros and tiger parts and products could include: at a minimum, consolidation and control of stockpiles; formation of a permanent wildlife or conservation law enforcement unit with specialized training; development and implementation of a comprehensive law enforcement and education action plan; increased enforcement penalties; prompt termination of amnesty periods for illegal holding and commercialization; and establishment of regional law enforcement arrangements. I would expect that in taking these actions, the PRC and Taiwan would take account of the recommendations by the CITES Standing Committee and other CITES subsidiary bodies. In that regard, I am pleased to announce that the United States will participate in a delegation to the PRC and Taiwan organized by CITES to evaluate their progress between now and the March 1994 CITES Standing Committee meeting.

At its last meeting, the CITES Standing Committee unanimously recommended that parties consider implementing "stricter domestic measures up to and including prohibition in trade in wildlife species now" against the PRC and Taiwan for their trade in rhinoceros and tiger parts and products. The United States is prepared, through close dialogue and technical aid, to assist the PRC and Taiwan. I hope that both will demonstrate measurable, verifiable, and substantial progress by March 1994. Otherwise, import prohibitions will be necessary, as recommended by the CITES Standing Committee.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 8, 1993.*

VACATING SPECIAL ORDER AND GRANTING SPECIAL ORDER TIME

Mr. WALKER. Mr. Speaker, I ask unanimous consent that the 5-minute special order be vacated for the gentleman from Georgia [Mr. KINGSTON] and that a 60-minute special order be granted the gentleman in lieu thereof.

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

There was no objection.

NAFTA NECESSARY FOR GROWTH IN AMERICAN EXPORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 5 minutes.

Mr. WALKER. Mr. Speaker, we live in revolutionary times. And among the revolutions that are sweeping the world at the present time, is the revolution of the globalization of the economy. More and more we find that the products on Main Street are products that come in from around the world, and what we know is that the United States also ships its products to the world.

What we do know about the United States is that we are the largest exporting nation in the world. We stand to lose more by the countries of the world cutting back on trade than we stand to gain, but we also stand to gain more as in fact trade expands around the world. It seems to me that we need to think about that as we enter into the debate over the next few days on the North American Free-Trade Agreement. Because it is clear to me that the one factor of globalization which we have to take into account is the fact that the world's nations, faced with a globalized economy, are coming together in trading blocs.

Europe has already come together in what has been known as Europe '92, and they now have a European trading bloc. The Pacific rim countries, ranging from Korea, down through Japan, Hong Kong, into Singapore, are coming together in a trading bloc to influence the trade affairs of that part of the world.

What we are attempting to do with the North American Free-Trade Agreement is to bring North America together in a similar kind of trading bloc. It is an important trading bloc, because in fact what it has is the largest consumer market in the world. It is a growing market, largely because of the growth of the Mexican economy.

If the United States is a part of such a trading bloc, it will give it clout in future negotiations with regard to international trade agreements.

We cannot stop the globalization of the economy, but we can in fact be a part of making certain that it is fairer to us. The only way that we can achieve that fairness is if we have the power and clout to make the General Agreement on Tariff and Trade, in other words, the worldwide regulations on trade, meet our needs.

If we do that as a part of the world's largest trading bloc, we have a chance of succeeding. If in fact what happens is we become isolated as a nation, so that only we are trying to negotiate against trading blocs around the world, that isolation will cause us untold difficulties.

Mr. DREIER. Mr. Speaker, will my friend yield on that point?

Mr. WALKER. Certainly. I will be happy to yield to my friend from California.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding. I think the gentleman makes a very good point about the globalization of trade which has taken place.

There are many colleagues here who like to say, "We should negotiate another North American Free-Trade Agreement."

Well, frankly, we know that to come to an agreement on which everyone will agree is virtually impossible. We have found that this one is very tough. The fact of the matter is, as we continue to talk about another NAFTA, we have seen not only the Pacific rim work to come together, but we have got four countries in South America that by 1995 will have a free-trade agreement. Chile is attempting to join with the United States as part of a free-trade arrangement. Then, of course, last December 31 we saw the emergence of EC '92.

So my friend is absolutely right that these trading blocs are developing, and the fact of the matter is the train is rapidly moving out of the station. The world is moving in the direction of satellite technology, cellular telephones, fax machines. All these changes are taking place, and, unfortunately, some here in the United States want to see us stick our heads in the sand.

None of us will argue that the NAFTA is a perfect agreement, but it is lightyears ahead of the status quo.

Mr. WALKER. Reclaiming my time, some Members here in Congress who are opposed to this treaty are in fact protectionists. They are proud to be protectionists. But the problem is that protectionism is a globalized economy is in fact isolationism.

My great concern follows exactly the line that the gentleman has just outlined. My great concern is that Canada, having elected a new government now, may in fact decide that if NAFTA goes down in the Congress, they will almost certainly pull out of NAFTA. The question is whether they will also pull out of the free-trade arrangement that already exists between our two countries. If in fact they would do that, if there were no NAFTA and if there were no free-trade agreement with Canada left at the end, the United States would stand totally isolated.

Maybe for isolationists that is fine. But, as far as I am concerned, that will be disastrous to our ability to build our economy within a global economy in the future. If I can make just one more point, it seems to me that the other thing that is going to follow, as night follows day, in this particular scenario is that Mexico will not be left isolated.

Mexico is a growth economy. Everybody acknowledges that. People want to take advantage of that growth economy. My guess is that the Japanese and the Europeans, and the Japanese in particular, are going to take advantage of our lack of desire to go into the North American Free-Trade Agreement and will make an agreement themselves.

□ 1730

The Japanese lobbyists in this town are not lobbying against NAFTA because they think that they are doing the good government thing. They are lobbying because they believe that Japan has a very good chance of making the deal the next day after we turn down NAFTA. And if that, in fact, happens, this Nation will not only be isolated from the world, it will be isolated in a way that our toughest trading partners will be right at our border.

NATIONAL AMERICAN INDIAN HERITAGE MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from American Samoa [Mr. FALEOMAVAEGA] is recognized for 5 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in support designating the month of November as National American Indian Heritage Month.

Earlier this month the House passed unanimously House Joint Resolution 271 which will designate the month of November, 1993 and 1994 in honor of American Indians. Together with 235 of my colleagues, this bill passed unanimously. There would have been one more cosponsor of this legislation, but because of an administrative oversight, the gentleman from Wisconsin [Mr. KLECZKA] was inadvertently omitted from the list of cosponsors. I want to take this opportunity to personally thank Mr. KLECZKA for his support of this legislation.

Mr. Speaker, each day we are in session this month I will bring to the attention of my colleagues some facet of the history of the American Indians which warrants this special recognition.

Today, among other topics, I would like to mention a few of the many contributions American Indians have contributed to the United States. Among these are the development and practice, hundreds of years ago, of the fundamental principles of freedom of speech and separation of powers in Government.

Mr. Speaker, also deserving of recognition are American Indian societies which exhibited a respect for the finiteness of natural resources through deep respect of the Earth. These values, which have been held by American Indians for thousands of years, are finally gaining popularity in other cultures as well. Indians showed early colonists how to plant and harvest tobacco and corn. As early as the 1400's many tribal governments were organized into operating cooperatives with managed economies and structured governments and standing militia.

Mr. Speaker, fire was judiciously used to assist in the management of farming land, and helped return nutrients to the soil. After the land was cleared by controlled burns, new plant growth came, and with that the deer that the Indians hunted. The land was also easier to cultivate, and berries and acorns could be gathered more easily. It was through land management of this nature that American Indians made the land more productive while carefully avoiding destruction of the ecosystems in the areas they used.

Mr. Speaker, even our favorite national park in Yosemite Valley was shaped by centuries of Indian burning, pruning, sowing, weeding, tilling, and selective harvesting. That this land could be managed so well while remaining productive speaks very highly of the Indian culture. Today, as we all know, if we want to preserve areas of natural beauty, we designate them as parks, wilderness areas, or in other similar protective categories. Despite complaints that we are protecting too much public land, it does point out the difference in today's society in that we are unable to maintain modest productive use of public lands without these designations. From my perspective, one of today's challenges is to create new ways, or return to old ways, to manage lands which make them productive without the use of contaminants which destroy the land for future generations.

For example, in Oregon, in the absence of controlled fires, the berry bushes no longer produce the thick crops of huckleberries that Indian elders speak of to younger generations. Another example is the underground sandwood plant found in the Sonora desert. Today, the plant is considered endangered in two States, yet when Indians migrated throughout the area in which it grew, the regular gathering

stimulated the branching of sweet, tender tissue.

Mr. Speaker, although not well known, not all American Indians were given U.S. citizenship until 1924, and not until 1948 did Indians in all States have the right to vote. Nevertheless, American Indians have served honorably in support of the United States in every war and conflict it has fought.

Mr. Speaker, the history of the relationship of the U.S. Government and the American Indians has not been without conflict. Over the past 200 years, we have gone through periods of armed conflicts, extermination, assimilation, termination of existing relationships, and then recognition of the same tribes again. This process is far from over. Just 2 weeks ago, I spoke at length on this floor in support of H.R. 1426, a bill to provide for Federal recognition of the Lumbee Tribe of Cheraw Indians of North Carolina. The Lumbees are an example of how poorly past relationships with Indians have been managed over the years. Despite recognition by the State of North Carolina, and general agreement among the experts that the Lumbees are, in fact, Indians, the Lumbees have been striving for Federal recognition for over 100 years. In the 102d Congress, a bill to provide for Federal recognition of the Lumbees passed in the House of Representatives, but was two votes short of those needed to pass a cloture motion in the Senate. The future of the Lumbees is again with the Senate, and I hope for a more satisfactory resolution of this issue during this Congress.

Mr. Speaker, I appreciate the opportunity to bring additional attention and recognition to the American Indians in this month of traditional thanksgiving, and I look forward to elaborating on future items of interest.

IN SUPPORT OF NAFTA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 60 minutes.

Mr. DREIER. Mr. Speaker, I have taken out this special order this evening to talk about a very important trip that I took this past weekend with several of my colleagues. That trip was to look at the situation in Mexico and specifically to see what the effect of the North American Free-Trade Agreement will have on both the United States of America and Mexico.

I should say that I went to Mexico believing that the North American Free-Trade Agreement was very important for the future of our entire hemisphere. And having returned just last night, I am even more convinced that it is clearly the right thing to do. In fact, it was a fascinating juxtaposition for me yesterday morning, I went to the largest Wal-Mart store in the world. It is not in Bentonville, AR. It is not in California. It is not in Texas. It happens to be in Mexico City.

It is a huge store, and we were there yesterday at midday in Mexico City. And it was amazing to see the numbers of Mexican people who came up to us and basically said, please get us more American products. In fact, one person thought I was a representative from Wal-Mart who had come in from Bentonville, AR. And the message was very simply, can you get us some more American-made products here.

And it was fascinating to listen to that, because I didn't just listen to people who came up to me. I went up to shoppers there and asked the question as to whether or not they were interested in more U.S. goods, and that was their No. 1 priority. In fact, in the largest Wal-Mart, which happens to be in Mexico City, over 55 percent of the products sold there are made in the United States of America.

When I said it was a fascinating juxtaposition, when I arrived last night, I got home late and turned on television to see the news and, naturally, channel surfed as many of us do. I got to C-SPAN 2, where I saw this rally that was taking place in Tampa, FL. It was a rerun of something that took place earlier on in the day.

It was our friend, Mr. Perot, who was talking abut the North American Free-Trade Agreement. As I listened to the things that were being said there, I was convinced that he was talking about a completely different country, a completely different arrangement, a completely different spot. It seems to me that these arguments, which clearly have instilled a great deal of fear in the American people, have not focused on the facts.

I am very pleased that tomorrow evening for 90 minutes on the Cable News Network, we will be hearing Vice President GORE and Mr. Perot debate the issue of the North American Free-Trade Agreement. I am convinced that as the American people and our colleagues here look at the facts versus the fear, which has been encouraged by Mr. Perot and organized labor and others, they will come down on the side of job creation, the expansion of export markets and, clearly, the choice that the United States of America must make to move in the direction of the rest of the world.

□ 1740

That is why I am very encouraged, and I am one of the people who, as we have looked at this, and have been talking to people in the media, I am optimistic about this vote. I happen to believe that a week from tomorrow we are going to see, at this very defining moment in the history of the United States of America and the world, passage of the North American Free-Trade Agreement.

As my friend, the gentleman from Ohio [Mr. BOEHNER] said from here in the well earlier today, during the 1-minutes, NAFTA is only part of this debate. Clearly the debate is much larger than that. It is going to be a determination as to whether or not the United States of America will be part of the wave of the future, or whether we will choose to look toward the past. That is why I am convinced that responsible Members of Congress will follow the directive of Edmund Burke and in fact be Representatives of the people, but use their best judgment as they seek to make decisions that will affect the United States and the world.

I would like to take a few minutes to talk about our trip, other aspects of it. We went to the border. We were welcomed, having traveled in with a very able Representative from the Laredo area, the gentleman from Texas [Mr. BONILLA], and we were greeted by the mayor and others in Laredo, and had a very impressive tour.

We saw what I was very happy to witness, a very warm relationship that exists on both sides of the border, Mexico and the United States. In my State and in other areas we hear about this adversarial situation which exists on the border, but it is great to see a very warm relationship between what are referred to as dos Laredos, the two Laredos right on the border.

The mayor and those with the Border Trade Alliance did a spectacular job of talking us and showing us the maquiladora. We had the opportunity to go to the Packard Electric facility in Nuevo Laredo, which is a maquiladora.

We often see the photographs of one particular spot where people live in cardboard houses. It was nothing like that. This was one of the cleanest operations that I have seen. The living standards of the people who work in this maquiladora, contrary to the photographs that we have seen, are very, very positive. They have a standard of living, a minimum standard of living which is nothing like the squalor which we have so often been told about.

The people who work in this Packard Electric facility in Nuevo Laredo are actually hourly workers who work there on average for 2 years. Basically the majority of the workers are very young. They are under the age of 20. this is really a first job for many of them, which is comparable to the kind of job that young people get in this country working at a fast food restaurant, for example.

Like many of the teenagers in this country, the people who are working in these maquiladoras in simply the assembling of operations work there, trying to earn money so they can improve their lot in life, basically to gain an education, just like many of the young people in this country.

Like most maquiladoras, the Packard Electric facility, which is part of

General Motors, is actually an assembly facility, not a manufacturing facility. So often we hear of this flow of manufacturing jobs that has gone from the United States to Mexico. The Packard Electric facility in Nuevo Laredo is simply an assembly operation.

The very high wage technical and manufacturing jobs that are part of the manufacturing that goes into the facility, into the assembling, are based in Michigan and Ohio, and I would like to underscore that again. The manufacturing for this assembly plant, which is the maquiladora on the border of Nuevo Laredo, the manufacturing is done in Michigan and Ohio. They employ 2,000 American workers, but 87 percent of Packard Electric's products originate from right here in the United States.

One of the other things that struck us there is, we had a chance to meet with the Customs Service. We talked about one of the very serious problems, that being the flow of illegal drug trafficking.

Clearly the statement has been made to us over and over again, every shred of evidence indicates, contrary to what one might have heard from threats that have been offered or any other situation like that, NAFTA will most likely reduce the flow of illegal drug trafficking, because it allows our Customs agents and auditors to visit plants in Mexico, to look at their books, and clearly, it provides an opportunity for an even greater degree of scrutiny.

It seems to me as we look at that, that is going to be just one other aspect of the benefit that is going to be accrued. I think that as we look at other aspects of this potential agreement, the agreement that has been signed that we will be voting on next week, we have many other very important items that need to be addressed.

One of the things that came forward when we did get into Mexico City was that there are great opportunities for competition to exist if the NAFTA is defeated, and the competition that we will see for us will, as my friend, the gentleman from Pennsylvania, said earlier, come primarily from the Europeans, who will clearly seek an opportunity to embark on a free-trade agreement with Mexico, and the Japanese and others in the Pacific rim.

Mr. Speaker, one of the things that I think needs to be pointed out, and I would like to underscore it once again, is the fact that the tariff barrier which is eliminated between the United States and Mexico under the North American Free-Trade Agreement is in fact maintained for other countries in the world that are not part of the North American Free-Trade Agreement; specifically, Western Europe, Germany and the Pacific rim, Japan.

As we look at that, the tariff barrier has remained for them, and yet we in the United States get an advantage. When we met with President Salinas and the very impressive members of his Cabinet, who have moved dramatically toward improved human rights, toward political pluralism, and toward a free market, the kinds of things that the United States of America has been encouraging for many years, we have found that the Japanese clearly would like to see the defeat of NAFTA.

In fact, President Salinas made it very clear that the Japanese have already made an attempt to be in contact with Mexico in hopes they would be able to embark on an agreement like the one that we are going to have a chance to pass here in the Congress a week from this Wednesday.

What happens under the North American Free-Trade Agreement? We have something called rule of origin requirements. We continue to hear about all these United States businesses that have continued to flow to Mexico, the fact that we have an opportunity for Japan and other countries to utilize Mexico as a springboard, so they can sell products into the United States, because we are the world's largest market.

The fact of the matter is, under the North American Free-Trade Agreement, that opportunity will not be as attractive for Japan or Western Europe as it is today. Why? Because we have rule of origin requirements.

Many people have said, "If we pass NAFTA, we will see the Japanese open up markets in Mexico the way they have opened up Honda plants and Toyota plants and other operations here in the United States, choose the cheap labor in Mexico and send the cars into the United States."

Anyone who has said that has not looked at the North American Free-Trade Agreement, for the manufacture of autos, the rule of origin requirement, basically domestic content requirement, states that 62.5 percent of that content must come from the North American continent: Canada, the United States of America, or Mexico. So they also will be faced with something that we will not have. That is the very high tariff barrier that exists today for us and the rest of the world, but will come down under the North American Free-Trade Agreement.

Mr. Speaker, I would like to take a moment to focus the attention of our colleagues on some charts which basically show, for autos and other sectors, what that tariff structure is today, and how it remains under the North American Free-Trade Agreement for the rest of the world but comes down for the United States of America.

I would like to first focus on the area of computers, which is a very large industry in my State of California, and something that is of great concern. Computers clearly are the wave of the future. Right now the average tariff on computers, as we can see from this chart, is 10 percent. Actually it goes as high as 20 percent. That is the tariff on United States-manufactured computers going into Mexico.

The tariff that we charge on Mexican-manufactured computers coming into the United States is between 3.7 and 3.9 percent. Basically, as we can see, we have again what I call the Gibbons thesis, for the gentleman from Florida [Mr. GIBBONS], chairman of the Subcommittee on Trade of the Committee on Ways and Means, who has constantly referred to the fact that there is one-way free trade today: That is, access of the Mexican manufacturers to the American consumer market. Yet it is very difficult for us to gain access to the Mexican market.

□ 1750

So basically it is 10-percent to 20-percent tariff on computers, comes down it is totally eliminated under the North American Free-Trade Agreement, but it is maintained for Japan, for Germany and the rest of the world as they attempt to get into Mexico. So those who argue that NAFTA is going to somehow enhance their chances are way off base. This tariff stays up for those not in North American or Mexico. The same for computer chips and electronics, and so on and so on.

I am very happy that I have been joined by my friend from Holland, MI, who was a very important part of our delegation in Mexico. And he is a new Member of Congress who has had a great impact on this institution and is doing a great job, and I appreciate the fact that he wasextraordinarily open-minded and very, very encouraged and impressed with the people of Mexico with whom we met.

I am happy to yield to my friend, the gentleman from Michigan [Mr. HOEKSTRA].

Mr. HOEKSTRA. Mr. Speaker, I thank the gentleman for yielding. What I would like to do for a few minutes is just to share some of my thoughts that I kind of kept a diary on our trip, if that would be all right.

Mr. DREIER. I am happy to hear the diary. I do not know if it will be subpoenaed, but we are happy to share it with you right here.

Mr. HOEKSTRA. I will shred it when I get back to my office.

I went down last Friday on the trip you organized to answer some of the questions that I had about the North American Free-Trade Agreement, recognizing that all along I have been learning in favor of supporting the agreement, believing that it would help create jobs in Michigan and in the United States. But for the people who are listening, here is a little bit of background, and here is what goes on when you are with a congressional delegation. HOEKSTRA has a little surprise when we got to Laredo, and we touched

down, and we walked down the steps, and we were met by a marching band. I was not sure that was what I expected on a factfinding trip, but I can tell you that it was a positive way and a positive thing to see so many young people beginning to get a feel for and beginning to get involved in the political process.

I will have to say as the rest of the trip went on it really was focused on factfinding. The people in the city of Laredo gave us an overview in terms of what increased trade has meant to their border town. In the last year they have invested over $100 million in construction projects. They have created 16,500 new jobs. Their unemployment rate is down to 8.6 percent over a history of being in the double digits. So obviously this border area is booming because of an improving relationship with Mexico.

We then went to Nuevo Laredo and visited a maquiladora plant. I thought the most interesting thing about walking into the plant for the first time was that the office furniture that they used was from the company that I used to work for, Herman Miller. The chairs that we sat in were the Equi-chair. I spent 5 years working on the development of that chair, getting that chair into production for the U.S. market, and know the production capabilities, recognizing that most of those components were sourced in the United States.

Mr. DREIER. Do you mean to tell me there actually was something in Mexico that was manufactured in the United States by American workers?

Mr. HOEKSTRA. The parts were manufactured and sourced in the United States, shipped to Mexico, and I visited with people from that company on Saturday.

Mr. DREIER. They were made in Michigan?

Mr. HOEKSTRA. Yes, they were made in Michigan.

Mr. DREIER. I mean that is just so shocking, because based on the rhetoric I have heard from Michigan, we have seen over the past several years nothing but a flow of Michigan jobs to Mexico. And it is difficult having listened to those arguments to believe that there is something that was made in Michigan and sold in Mexico.

Mr. HOEKSTRA. Yes. I talked about the company I worked for, Herman Miller, and the furniture business. Two other significant players in the furniture business, Steel Case and Hayworth have also both made significant increased exports from west Michigan into Mexico.

Mexico is an evolving market. One of the things I was going to talk about later, as we drove through Mexico City, one of the things that we used to always do as we traveled around the United States, we could always tell what city was going to be a boom market in our industry 2 or 3 years in the future, because we would take a look at the number of construction cranes between the airport and downtown. And driving from the airport in Mexico City and driving downtown, and then on Saturday driving 25 miles from the center of Mexico City, which is where I think we were, driving 25 miles down a six-lane expressway, and it is hard to believe for an economy that cannot afford to buy cars, and if we were not being, you know, given a snow job, as we were in Mexico, I do not know where they found the cars to fill up 25 miles of expressway with bumper-to-bumper traffic on a Saturday afternoon.

Mr. DREIER. Let us underscore that point once again. We continually hear this argument that the people of Mexico could never afford to buy any United States-manufactured products. We hear that so often about these poor Mexicans, and I am always struck with that. I mean, if you look at the city, is there poverty in Mexico? Of course there is poverty in Mexico. Is there poverty in the United States of America? Of course there is poverty in the United States of America. But if you look at the argument we have heard for years, that there are 36 ruling families, and only a few very wealthy people, and the middle class in Mexico is virtually nonexistent, the fact of the matter is there are 20 million people, as we found from our trip, who are middle-income wage earners and purchase these things.

I mean, we went looking all over. We even did a hardship duty by going to the Hard Rock Cafe and found hundreds of people who obviously were able to afford all kinds of things. And these people have regularly said, "We want U.S.-made products and goods."

So my friend is absolutely right. When you look at the standard of living in Mexico City and in other parts of the country, clearly it is much different than the picture that has been portrayed by many of our colleagues here, and some of those who are trying to instill fear in the American people.

Mr. HOEKSTRA. Let me make it clear that you were at the Hard Rock Cafe. I was back at the hotel.

But in terms of Mexico City, and of construction cranes, they have a number of modern office buildings, and they are going to have many more. It is an emerging economy.

The other interesting thing, you talked about consumption. We may talk about their priorities, but we happened to be staying in the same hotel with Michael Jackson. Michael is down there for approximately 2 to 3 weeks. He is doing six concerts. He sold out 6 concerts, 100,000 people per concert. The cheapest tickets was $30. So there is some money available, and there is an emergent economy in Mexico.

But if we go back to what we did in Nuevo Laredo, we went through the Packard Electric plant, and again Herman Miller furniture, much of it sourced in west Michigan. We then took a look at their history. They moved down into Mexico in the late 1970's, way before anybody ever started thinking about NAFTA. They moved down there because they were in danger of losing all of their jobs, all of their employees' jobs because their competitors had sourced low-cost labor in Asia or in other parts of Mexico.

Today Packard electric is maintaining 12,000 jobs in the United States and growing. They do have 26,000 jobs in Mexico, but they would not have had any jobs if they had not taken the initiative to blend low-cost assembly with high-technology work in the United States.

As we also found out on this trip, I got a letter today from one of my constituents who said why do we not, if we really want free and open trade, why do we not form free trade relations with Japan and Europe. I think that would be the most unfair thing to do to the American worker today.

Japan, in terms of assembling and manufacturing their products, has what we would call a 35 percent low-cost content. Japan has more maquiladores type plants in Vietnam, which they have just developed over the last 3 to 5 years, than what we have in Mexico. Japan has brought to an art form the blending of high-technology skilled labor in their country along with lower cost, lower skilled jobs throughout Asia. And that is how Japan has gotten so strong in terms of competing on an international basis.

Us going head to head against that type of blended relationship that Japan has and that Europe is developing would put us at a distinct disadvantage, and would be absolutely the most unfair thing to do to the American worker today.

We toured the factory floor, well lit, clean, low automation, very labor-intensive work. What the people in this plant assembled were the wiring harnesses for our cars, laying all of the wires out on about a 48 sheet of plywood, clipping on the connectors at the end, high labor-intensive, low automation, perfect blending. These harnesses now go into U.S. cars.

Once the tariffs come down between Mexico and the United States, all over it will reduce the cost of our cars that are manufactured in North America. And I think it will make us more competitive against our Japanese and European competition.

□ 1800

It was interesting as we left the Packard Electric plant—and I loved the convoy that we were in, 1 bus, 8 or 10 cars including police cars, pickup trucks, suburbans, rat patrol jeeps with police insignias on them. But then as we were driving through some of the

low-cost housing—and Mexico does have poor areas—but it surprised me the number of satellite dishes that we saw. For an economy in a city that has such poverty, to still see satellite dishes throughout; and you see the Mercedes truck dealership. One of the things we saw throughout the trip, all of the companies on an international basis that are moving in there: Mercedes, Lufthansa, Philips, just one company after another establishing a presence in this country as the economy starts to emerge.

We see lots of VW Beetles; it is still the most popular car in Mexico and still manufactured there.

Now the wastewater treatment plant—and the environment is an issue—currently the sewage from Nuevo Laredo goes in a raw state directly into the Rio Grande. This is a huge new sewage treatment plant. The environment will be improving. But when you take a look at what is going on in terms of how they construct it, they are constructing it with shovels, pickaxes, human labor. They look like ants scurrying all over the site.

It looked to me—I asked myself the question: Is this one of the areas where we can really have an impact? And I mean with the infrastructure construction, by U.S. construction companies.

We go back to the border and we meet with U.S. officials. I find that on the drug issue that now is being brought up by Mr. Perot: If 35 million people cross this section of the border annually, the problem with drugs I do not believe isan access problem. It is a demand problem.

Drugs are crossing the border because there is a demand in our cities and among our young people for these drugs. We have a 2,000-mile border. I cannot believe that with NAFTA all of a sudden we are going to find more drugs flowing into this country because they are going to be able to sneak it in through trucks. Now, I believe with as many drugs coming into this country today as what there is demand for, that is really a red herring. In fact under the North American Free-Trade Agreement it will be easier for our customs officials to have access to Mexican operations that they do not have access to today, for inspection.

So that enhances our chances to police it.

Mr. DREIER. Mr. Speaker, my friend is right on target when he says that the problem is not the supply, it is the demand. The demand here is obviously such that it flows across the border and we are trying our darndest to decrease that demand. If it is successful, there will be no incentive for this flow of drugs to continue across the border.

Mr. Speaker, I further yield to the gentleman.

Mr. HOEKSTRA. As we go on we go to Mexico City and we meet with Mexican officials on Saturday morning. I was very impressed with the quality of their presentation. But I think perhaps some of the things that we ought to know, or the American people ought to know is that they come up with a great formula for success for their economy and for their Federal Government. They have cut the capital gains tax to zero, they do not tax dividends, they have cut corporate taxes and individual tax rates. And it is possible—they not only have balanced their budget but for the last 2 years I believe they have run a surplus.

Mr. DREIER. And they have taken the entities that were heretofore owned by the government and sold them off and taken their national debt from $62 billion down to $20 billion.

So what has happened is we have seen what many people like to claim was a failure in the United States, that being the concept of supply-side economics, cutting taxes, stimulating economic growth, increasing revenue to the Federal Treasury works successfully in Mexico.

Mr. HOEKSTRA. I thought one of the questions that I wanted to ask President Salinas which I have not heard much of the debate on or ever been part of the debate here in the United States. And that is what is the threat to Mexico if NAFTA passes.

It seems like everybody believes that this is only a win-win situation for Mexico. But there are certain threats that may happen to Mexico if they do not step to the line once NAFTA gets approved. They must perform.

They have 6 million farmers today to feed 85 million people. We have 2 million farmers to feed 260 million. Today their support price for corn is twice the world price. The agricultural community, the industry in Mexico is going to change dramatically as a result of NAFTA. There are going to be many people who are going to be displaced from their farms because of what is going to happen as we get more efficient United States agricultural products providing access into Mexico. It is not all a free ride for Mexico.

Their inefficient businesses are going to have to improve. They must be competitive. They have to be more labor-conscious, they have to be more environmentally conscious, they have to continue their budget discipline, something that I hope we learn from them.

They are moving; in the last 5 years they have moved from a protectionist command society to a free-market economy.

Five years ago the Government was running that country and running the economy and running all kinds of their industry. We do not even talk about the history that is such a built-in advantage to our country, our free-enterprise system. We know how to compete, we know how to be productive, we know how to bring labor and management together and to compete on a worldwide basis.

These are many skills that are just starting to develop in the Mexican market.

Mr. DREIER. And they have started developing it and it has brought some incredible things about. Throughout history they have had continual inflation, as high as triple-digit inflation in Mexico. They now have an inflation rate that this year is expected to be about 7.5 percent. They cut taxes, as my friend was referring to earlier, and we have seen an actual increase over the past 5 years in revenues to the treasury by 32 percent as capital gains, corporate taxes on dividends were cut or eliminated.

Mr. HOEKSTRA. I think President Salinas talked about, this, that perhaps the biggest reform they have made in addition to some of these others is that they have had to change their mental attitude. It has been a mental reform; they change in their perspective, meaning they have to develop closer relations with the United States.

Remember, the United States took one-half of their territory. Mexico once invaded the United States. So he has had to change their mentality from being a protectionist society to one that is reaching out, not reaching out for aid, but for trade so that it can move forward.

I found it very interesting that as he is talking about a feeling for change and transformation, he made a call for hope, not fear; even though Mexico has gone through more change and pain during the last 5 years than what the United States has.

So he, in that country, still appears to be willing to move forward; he sees change, transformation as the opening of new doors and new opportunities while in many cases we look at change not in a positive perspective but as a threat to the status quo. I think it says something about where the United States is and perhaps something about where the rest of the world is today.

I asked myself the question, I jotted it down: Why is the United States gripped with fear? Do we have some more fundamental fears in this country today that NAFTA has come to symbolize? The problem is not NAFTA, but we have some fears in our country.

You know, NAFTA, I think, says, or it becomes a statement of the type of relationship that we may want to have together. We must challenge both countries to get better.

President Salinas believes that NAFTA may be a once-in-a-lifetime opportunity. As I talked with Mexican citizens later on in the day they are very aware of the North American Free-Trade Agreement, the discussion, the debate, the controversy in the United States. I do not believe it is as simple as saying, "Well, let's just vote this NAFTA down. If it passes we will go back and renegotiate another one."

The door may close or the door may open to Mexico to form some relationships either with Europe or Japan.

Mr. DREIER. My friend is absolutely right on that. I think from having traveled around the country, an interesting irony: It was announced just before we went down there that there would be this debate taking place between Ross Perot. And of the 86 million Mexicans I did sort of a sampling survey and found that 29.6 million of those Mexicans would like to debate Ross Perot. As a matter of fact everywhere I went there were people who said, "I want to debate Ross Perot. He is wrong on this. We want to create jobs and opportunities and we want more of your products."

So the fact of the matter is I happen to believe these people who are hungry for U.S.-manufactured goods and services know that this is the right thing to do.

Mr. HOEKSTRA. Mr. Speaker, if the gentleman will continue to yield, as we went on during the day after the meeting with President Salinas, I went off with a colleague of mine that I used to work with who was born and raised in Mexico City, worked in the States for 12 years and has now relocated back to Mexico City.

He took me around to parts of Mexico City that perhaps the Embassy would never have taken me to. We went 25 miles south, you go 25 miles in Mexico City and you are still in Mexico City, but he took me to his home where he grew up and explained to me the differences in the community, taking me through some of the back streets, going around through the alleys and all of a sudden you are coming up on a small little store. There are lots of little shops in Mexico City, but there was a video store, a rental store, which tells me they not only have VCR's, they also have TV's.

Once again it moves aside the assumption or the belief that the Mexican people cannot afford or will not buy United States consumer goods.

Like I said, six lanes of traffic, bumper to bumper for 25 miles, lots of construction cranes, the old indicator of future business. There is going to be a lot of future business in Mexico City. There are lots of modern office buildings. This is not your typical poor country.

Mr. DREIER. It is very interesting that the gentleman talks about this issue of so many U.S. goods, wanting access to them, TV's and VCR's and all, as we went through that Wal-Mart store yesterday afternoon, and I know I am jumping ahead, but I was talking about this before my friend joined us here, one of the things I was struck with, 55 percent of the goods come from the United States. I did see many items that were from Taiwan, China, and Japan in the Wal-Mart store. The president of the partnership there said to me, "Well, of course, you know that under NAFTA there will be a much greater opportunity for United States goods to be here than this exercise equipment from Taiwan, this basket here from China."

Why? Because the tariff barriers which exist today for products going from the United States to Mexico may go down to zero under the North American Free-Trade Agreement, will continue to exist for Taiwan, Germany, Japan, China, and every other country throughout the world that is not part of the North American Free-Trade Agreement.

So what it does, it greatly enhances the opportunity for United States-manufactured items to go to Mexico by way of the zero tariffs under the North American Free-Trade Agreement.

Mr. Speaker, I am happy to yield further to my friend.

Mr. HOEKSTRA. On Sunday, I had the opportunity not to spend the time with the rest of the delegation, but to visit an agricultural center in Mexico, 150 miles north of Mexico City. I had the opportunity to go through much of the countryside. There are lots of areas that we would describe as poverty, probably most of it.

Highway transportation was good. Then we get into some of the side roads. The roads deteriorate. Then we come upon a pretty nice city again. Another emerging growth area. You start seeing the car dealerships again. You start seeing the consumer goods stores. You see that in this area of agribusiness where they do have some special resources that they can and will compete. There is no doubt about that. It is a beautiful countryside with lots of small farms, but in these agriareas they have developed an organized agribusiness, some are state of the art.

I went through one of their processing plants,because many of my growers of asparagus are concerned abut what may happen to their asparagus market; but they have talked about and shared their experience with garlic in terms of saying that with that product, their growing season complemented our growing season. Their growing season for asparagus is different than our asparagus season in Michigan. They complemented the garlic growing season as garlic became available on a year-round basis. All of a sudden consumption increased.

Will the same thing happen with asparagus? I am not sure. I hope it does.

But they also mentioned that it is not always as clear to say that their costs, their labor costs are the determining factor. Their costs for energy are higher than ours. Their costs for pesticides are higher than ours. Pesticides, yes, they do use pesticides, but pretty much in the same way that we do, because the produce is checked at the border. They are checked at the U.S. border.

They also export to Europe. They export to Japan; so in some cases they have to use standards that are as tight, if not tighter than ours, because you cannot wash the pesticide off. You can test the tissue of your vegetables and determine what pesticides have been used during the growing of that particular vegetable.

So they are cautious. I am sure there may be some abuses, but I do not believe they are as widespread as what some would lead us to believe.

Most of their farms have to be irrigated. So it is not as straightforward as saying they have got these advantages of low-cost labor, they just use pesticides indiscriminately, therefore they are going to cream us in what may be called specialty crops.

I think the issue is much more complex than that.

I went through one of their processing plants, a plant that looks much like the kind of processing plants that we have in west Michigan, but it was clean. It was safe, and probably had much more manual labor than we would have had in one of our plants.

Mr. DREIER. That is not what we hear about working standards in Mexico as one listen to the arguments that have been coming from the opponents of the North American Free-Trade Agreement.

Mr. HOEKSTRA. Well, yes. The surprising thing is, as the gentleman knows, we decided to leave early on Sunday morning, so I was not able to meet with the person who was setting up my schedule in this town. We ended up meeting with his sons. They gave us some options of what we could see. We told them what we wanted to go see, and we did that from 8 o'clock in the morning until 10 o'clock in the morning.

We met with their father who had set up the agenda that was supposed to start at 10 o'clock and run until noon, which was much different; so we had really the opportunity to set the agenda. It was an unplanned agenda and it was not something that they had planned the week before and said, "Hey, we've got some American Congressmen. Let's take them to these certain facilities."

We threw them kind of a curve ball unintentionally. I think we saw what we wanted to see.

As a final note on the trip that some of the American taxpayers may say this is why we have a problem, but it may also give them an idea in terms of what the infrastructure is like in Mexico.

To take me to this town, 150 miles away from Mexico City in a rural area, to take me and two people from the Embassy, we needed to take two cars.We needed to take two cars because it is not a fully developed country. As such it has certain advantages and disadvantages, but since there are

no gas stations or they are few and far between, they wanted to make sure that they got me to the location where we wanted to go and they got me back to Mexico City to catch the plane to get me back to Washington, that they felt the only sure way to do that was to make sure that there were two cars, one taking us and one as a back-up.

Now, if that is how some businesses have to operate in Mexico, you know that there are added costs, and I am sure most businesses do not go driving around with two cars, but I think when you start taking a look at perhaps the reliability of their phone service, their electricity and other types of things, there are incremental costs in their businesses that we do not have in the States. Their infrastructure is not where ours is.

Mr. DREIER. That gets right to this point of low-cost labor which we continually hear over and over again. All these United States businesses are flowing into Mexico to take advantage of low-cost labor, which again is a fallacious argument, because the United States businesses that are located in Mexico, owned by United States companies, 70 percent of the business that they do is right there in Mexico to gain access to the Mexican consumer market. They have to get into that country and open their operations so that they can be there. They are not there using Mexico's labor to export back to the United States in an overwhelming number of cases.

Why? The reason for that is that the raw materials, the infrastructure, those things to which my friend has referred, are more costly in that country than they are in the United States.

Under the NAFTA, many businesses that have to move to Mexico because it is the only way they could gain access to the 86 to 88 million consumers there is that they will be able to stay in the United States because of the zero tariff that we will have under the North American Free-Trade Agreement.

Mr. HOEKSTRA. As I came in and the gentleman was talking, the gentleman was talking about the automobile industry. The other statistics that have been published in the United States story run a while back in the Washington Post, producing a car in Mexico is actually more expensive than producing that same car in the United States. If NAFTA passes, and as the trade tariffs come down for United States automobiles in Mexico, I think that automobile company is going to have to think long and hard about building new capacity in Mexico with the costs, even if they were the same, but they may be higher, when they already have excess capacity in the United States, the smartest thing for them to do is to add more workers, perhaps add another shift in the United States to take advantage of the capacity that is already in place before they ever opened one more plant in Mexico.

□ 1820

The most efficient thing for business is to utilize capacity, not build new capacity.

Mr. DREIER. Mr. Speaker, my friend is absolutely right. In fact, the cost is about $400 per unit higher to produce an automobile in Mexico than it is in the United States because of all those factors.

This clearly is a bipartisan debate. There is a strong bipartisan coalition in support of the North American Free-Trade Agreement, and I am very pleased at this point that we have been joined by my very good friend from Selah, WA, a classmate of the gentleman from Holland, Mr. INSLEE, and at this point I would be happy to yield to my friend.

Mr. INSLEE. Mr. Speaker, I say to the gentleman, "Thank you. I appreciate that. I am glad to be able to join you."

I just have a couple of things to add that I sort of stumbled across in the last weekend. I thought the gentleman might find it interesting.

As the gentleman knows, many of the people that we have talked to in our debates, in our discussions in our townhalls, expressed questions about NAFTA and the ability to which we will have to really export under NAFTA to Mexico, and I just thought I would share with the gentleman and some others some of the statistics I picked up this weekend about that.

I think that the perception that we have about Mexico is rooted in the past, and let me just show my colleagues some numbers, if I can, about, in fact, what people have, and buy and purchase.

I was talking to someone the other day, and I said, "You know, when we knock down that 22 percent tariff in Mexico so we can sell cars to Mexico," my friend said, "Well, they don't have cars in Mexico," and I said, "Well, they do have cars in Mexico," and their particular version of reality is wrong, and I am just looking at this survey. It was in the New York Times yesterday.

Out of 5,000 people, and it was a survey in 42 U.S. cities, 53 percent of the households had a car, 83 percent of them had color television, 53 percent had phones, 63 percent had VCR's, 24 percent had compact disk players.

The problem we have faced in NAFTA is that our vision of Mexico is greatly outdated. In fact, we have got an economy there to sell to. They buy cars, they buy VCR's, and it is about time we started selling to them. It is a fact that, I think, ought not to be lost, and why it is important for us to sell it to them—I thought maybe I could just share with my colleagues the facts I received from the Tutt Hill Corp. in Tacoma, WA, and I just want to paraphrase it.

It is a fax for me. It describes a joint venture of this cable craft vision. They have a joint venture in Mexico since 1976, and they entered into an agreement then, and they had some operations, not because Mexican labor rates are low. It was because it was the only way to get their goods into market.

And I just want to read to my colleagues one paragraph from Keith Clino. I have never met Mr. Clino about his business. I got this unsolicited. This gentleman is not even from my district. He says:

> If you pass NAFTA and eliminate the restrictions at the border, we will sell our joint venture and ship completed products from our South Carolina facility. The results will be more consistent quality at a lower price for our Mexican customers plus more jobs in the U.S.A. Vote yes for NAFTA.

I think this was the best kind of argument I have seen yet for NAFTA, when someone who is not even from my district takes the time to tell me, "Yes, INSLEE, you pass NAFTA, and I'm going to create some jobs in NorthCarolina." I realize they are not in my district, but they still count because they are in the United States of America, and I think we have got to start paying attention to American entrepreneurs and American jobs that come along.

Mr. DREIER. My friend is absolutely right, and I thank him for his helpful contribution.

An excellent 1-minute speech was delivered when the House convened today by my good friend from Phoenix in continuing the bipartisan spirit of this debate, trying to create jobs and opportunities and break down barriers. My friend from Phoenix, Mr. COPPERSMITH, I am happy to yield.

Mr. COPPERSMITH. Mr. Speaker, I thank the gentleman from California [Mr. DREIER] for yielding.

I walked in with exactly the same chart which I will circulate, Mr. Speaker, to our colleagues pointing out this is a survey of over 5,400 people.

Mr. DREIER. Why do we not have that chart entered into the RECORD so that all of our colleagues who may not be following this debate at this moment may have a chance to do that?

Mr. COPPERSMITH. I think the point for our colleagues to remember is that is a survey of over 5,400 households. Most of us make decisions on whether to run for reelection on far fewer over far more complex issues, but there is a Mexican middle class. It is rapidly growing. It is, as the gentleman has said so many times, larger than the entire population of Canada. This is a rapidly growing market, and it is one where we have a natural advantage that we should take advantage of.

The issue I wanted to discuss, I discussed during the 1-minute, I think it bears some repeating this evening, comes from an article by David Hale who is the chief economic analyst from Kemper, and he points out that in 1992, the last full year we have trade statistics available, the United States ran a

$5 billion surplus with Mexico which our opponents are talking was a low wage country. We still sold $5 billion more in goods and service to the Mexicans than we purchased from them.

Compare that to East Asia where the United States ran a $75 billion trade deficit with the countries of East Asia. Why is that? It is because we have American companies selling their goods and services, have 70 percent of the Mexican market, but we have a bare total in East Asia.

Mexico represents a rapidly growing market, and I just ask my colleagues to imagine what would have happened if we had had a trade policy, an economic policy, that would have encouraged those kinds of jobs instead of going to East Asia and developing that huge trade surplus to stay in North America to create that market where we have that natural advantage.

In East Asia incomes have gone up twentyfold over the past 15 to 20 years. Allowing that kind of growth in Mexico will spur the kind of growth we are seeing in the United States, and it makes only sense for us to try and increase our advantage to the market where we have a natural advantage anyway.

Mr. DREIER. If I can follow on that point, it is a very good one that my friend makes, and, going further, as we look at the Pacific rim, 35 percent of the products that are sold by Japan are done so with partnership arrangements that are made, partnership arrangements that are made with other countries in the Pacific rim, whereas today only 5 percent of the products that are exported from the United States are done so with any kind of partnership arrangement.

So, that is a fascinating factor. For example, if we look in Japan at an item that is manufactured there, it most likely would include, as one pointed out to us, part of that microphone that was made in Malaysia or another part of the Pacific rim, and so these partnerships are growing in the Pacific rim. As I say, 35 percent of the products exported from Japan are done so under a partnership arrangement today. Only 5 percent of the U.S. goods that are exported are done so under a partnership arrangement.

And to further confirm the point that my friend made, Mr. Speaker, I happen to just have another chart there which my very able staff has put together, I assume with the help of some outside organizations. But this chart points to the per capita spending on goods made in the United States of America, and, if we look at this, we can see on this chart, Mr. Speaker, that the per capita spending is $385 in Japan, $296 in Europe, and $450 spend on a per capita basis by those very poor Mexicans who cannot afford to buy anything in the United States. When we look at Japan, the earnings are 10 times those of the Mexicans, and yet $450 is the per capita spending for Japan, $385 for Mexico, $385 for Japan.

So, it is very clear that we can put together partnership arrangements, as the Japanese have successfully done with 35 percent of their exports. We can do the same with our exports moving from 5 percent up to an even broader level if we will reduce barriers to enhance opportunity, and I would like to further yield to my friend from Holland, Mr. HOEKSTRA.

Mr. HOEKSTRA. There is also much debate and discussion about that $450 in terms of saying it is not meaningful or it is capital goods. It is also interesting to note that, as we met with the Mexican Government leaders, they pointed out, and I think that viewers need to recognize, that the Mexican economy was a centralized planning organization. The Government ran the economy as they went to privatization and led that drive. In 1988, much of the capital structure of that country was deemed to be worthless because to a much lesser extent than what we have seen in the Soviet Union, in Mexico they also found out that many of the things that government thought was important and that government should be involved in, that they should be investing in once they went to a free market economy, they found out that is not what the consumers wanted.

□ 1830

The reason they are buying so much capital equipment is because they are starting in many ways from scratch.

Mr. DREIER. Mr. Speaker, I ask unanimous consent that the gentleman from Arizona [Mr. COPPERSMITH] be allowed to manage the remaining 6 minutes of my time.

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

There was no objection.

Mr. COPPERSMITH. Mr. Speaker, the chart that was earlier referred to by my colleague from California, it is important to remember that Mexico is already one of America's biggest and best trading partners. Mexico imports $40 billion in American products a year. There are our third largest export market and we have a $5 billion trade surplus, as I have already mentioned. It is the 13th largest economy in the world, and it is growing quickly, with a middle class estimated at 20 million people that like American products.

It is also important to remember that there are an estimated 700,000 American jobs that rely on those $40 billion in exports. There are jobs today that depend on trade with Mexico. You can only look at the past to see how Americans have benefited, how American jobs have been created, from increased trade. It is a rapidly growing market. It is one in which we have a natural advantage, and it is an opportunity of which we should take advantage to pass NAFTA.

Mr. DICKEY. Mr. Speaker, I wanted to see if you all could tell me what you hear out there when you talk to the opponents of the NAFTA agreement, what is said in response to the fact that we can get out with 6 months' notice, six months' termination? Have you all had any discussions about that?

Mr. COPPERSMITH. If I could jump in first, I think a lot of the discussion we are hearing is almost biblical in nature, that NAFTA has become the economic scapegoat upon which many people are trying to visit a number of supposed economic sins, and if, by attributing to this treaty everything that has disturbed people about the progress of our economy, if we could banish it into the wilderness, that somehow we would be redeemed.

It does not work that way and will not work that way, and we would only be turning our back on a leadership role in the market, in our own economy, and a leadership role in our own hemisphere.

Mr. INSLEE. I agree with that comment. If I can respond, what I hear, I will go one step further if I can. The answer to that, I have heard, is no answer. The answer I hear reminds me of Orson Welles.

If you will recall Orson Welles on Halloween, I think back in 1939, he went on the radio. He was a very charismatic figure, and his troop, the Mercury Theater, he convinced millions of Americans that the Martians were landing. Not to take our jobs, but to take our towns over.

Mr. COPPERSMITH. I think it was Downer's Grove, NJ.

Mr. INSLEE. You have got that right, in New Jersey. And that is what we have heard, and that is what I suspect we may hear some more of as we go along. It is simply fear, the fear of the unknown. Let me give you an example. I was talking to a woman today who right now I know her employer in Wenatchee, WA, is going to hire more people to increase exports of apples to Mexico the day NAFTA passes, if we knock down those Mexican trade barriers.

Yet she was concerned because she heard a rumor from the fearmongers that they are going to ship her job to Mexico, when right now she does not even have a job because we cannot get enough apples in. We are getting some in. We are going to get more.

So I think that the answer we get is the Orson Welles' response. And the point you made is the best way to believe a treaty is good is when the other side says it is bad. And I heard you say this the other day, that if they will let you out in 6 months' notice, they have got pretty good confidence it is going to work, as you and I do.

Mr. HOEKSTRA. I would say in response to your question that when we are in a rational argument, in a rational discussion, which we have not always had in this debate, that when you

explain to them that the agreement allows for any time in the future with 6 months' notice, to get out of the agreement, that what that will do is it will force all three parties to ensure that this is a win-win-win agreement, because if it becomes a lose for any one of the three, they will pull out. And that is not what any of us want. We want a strong North American manufacturing alliance that is win-win-win, and a 6-month escape clause provides us with that option.

Mr. DICKEY. The thing that I think is so significant is that a 6-month escape clause is really looking at it from a negative standpoint, that we are going to get out. But it eliminates the sovereignty issue, this business about well, we are giving up our sovereignty. How in the world can you give up your sovereignty if you can get out in 6 months or the other guy can get out in 6 months?

It takes away arguments like well, we cannot renegotiate. Because if you get out in 6-months, you can always renegotiate. Always. If you have some problems you can renegotiate. And that is going to be a threat at the table at any time.

I say we do not have a chance of exploiting Mexico. We do not have a chance of exploiting Canada. Because we have the 6-month clause that what it will bring to us.

Mr. COPPERSMITH. Mr. Speaker, I thank the various gentlemen for participating in this special order.

HEALTH CARE IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 60 minutes.

Mr. KINGSTON. Mr. Speaker, I wanted to talk tonight about health care, and specifically I wanted to talk about the Clinton proposal, and then talk a little bit about the Michel alternative. The reason why I want to do this is because there are a lot of health care plans that are out there right now. I am glad that there are a lot of plants out there. There are plans offered in the Senate. There are plans offered in the House, by Republicans and by Democrats, and certainly by the administration.

But, let us face it, the President is a 500-pound gorilla. Therefore, his health care plan is center stage, and that is the plan I am going to talk to, address tonight.

I want to say up front though that I am not in favor of his plan, and I want to talk to you about that and explain why. In doing so, I will explain the goals and the mechanics of his plan and what I see are the good parts and the bad parts.

First of all, let me say this: That the plan has three basic goals. I know that they actually say six goals, but there are three basic goals: security, savings, and simplicity.

Security, universal coverage. Everyone in America will have health care, despite your income, employment, age, medical status. Whatever, you will have health care.

□ 1840

That health care will be portable. If you quit one employer and go to another, no problems satisfying a preexisting condition portion of a policy. You can take it with you. You will have a guaranteed benefit plan without cancellation. Every American will have an insurance card. With this cared, you can get health care coverage anywhere you want to go. And it cannot be cancelled.

I think that has some interesting ramifications aside from health care, because this plan will also register you as a resident of America, no matter where you are. And so I would think that this card could also be used for criminal investigation and background checks. I only say that in passing, because I think there is something there that bears investigation.

This health care bill is a 1,600-page bill, and we need to know what is in all the parts of it. Now, aside from the goal of security, the plan also has savings. The idea is that each individual in America will pay about 1,800 for health care, and families will pay about $4,200. The idea behind the savings is that you will have more people, in spreading the risk, more people participating in the program because we will not just have 215 million insured people, we will have an additional 37 million.

Now, the President's plan does not address the fact of what happens if all those 37 million cannot pay, but this is part of the idea of savings.

The third goal of his plan is simplicity, one-stop shopping. You will get your health care through a health care alliance. Now, there is simplicity for the individual, maybe for the shopper, but there are a little bit more problems for the bureaucracy. Because according to one study, the plan will actually create 59 new Federal programs, expand 20 others, and begin 79 new Federal mandates and changes in our tax laws. That is not exactly simple. It reminds me of the saying, "I am from the Government; I am here to help."

I do not know that that will help or not. But remember, we are looking at a 1,600-page bill. These are the goals of the President's plan, the mechanics. How does it work?

Step No. 1, creating a national health care board with seven full-time directors. Now, Health Secretary Shalala said that these directors would actually have minor responsibilities. Later she went back and said, "Well, I meant it would be minor, the number of people who actually serve on the board."

But included in their duties, no matter what you call them, is that they would outlaw certain insurance practices and change certain policy rules and preempt a number of State laws that affect insurance. Insurance has been regulated by the McCarran-Ferguson Act, which says, as long as States regulate insurance, the Federal Government would not get into the roll. Well, this bill, I would think, in effect, repeals McCarran-Ferguson, particularly as respects health care.

The board would also establish community rates. Remember, we talked about this health care card. One thing about it, you and I, everyone in America will have it, but what is interesting to note is if you are a 23-year-old marathon runner or a 55-year-old person who does not ever exercise, you may smoke a little bit too much, you may drink a little bit too much, you may eat a lot of fried foods and never exercise, your premium is going to be the same as the 23-year-old marathon runner.

I do not like that idea. I think that you should have personal responsibility and that people who take care of themselves should pay a lower premium than those that do not. As one friend but it, in the automobile business, it would be similar to charging somebody who has absolutely no speeding tickets and somebody who has several DUI's and five speeding tickets the same premium. Where is the personal motivation.

Another thing the national health care board will do is define the benefit package, decide what is covered in the policy and what is not. And then, and maybe most importantly, they will decide what protocols and what procedures are appropriate for health care providers. As I read it, there is not a provision that national health care board members or the alliances under them have to be medically trained, but they will be telling doctors what procedures are and are not appropriate. That is step No. 1.

Step No. 2, by January 1, 1997, each State will have to set up a series of health care alliances. The health care alliances will act like a broker. They will tell customers which network has what sort of plan, what their service record has been. They will also have a report card where they publish the performance of the different networks. They monitor the claims and collect all kinds of data.

But the alliance is a Government-created monopoly. You will have to buy your health care through an alliance. That means if you are happy with your current coverage, if you are one of the majority of Americans that surveys show that you like the plan you are under right now, you will have to surrender that. You will have to get it through an alliance. that is the second step.

The third step, and actually, it goes at the same time as the setting up of the alliance, that would be requiring or pushing and encouraging health care providers to join a network. That would be your doctors, your hospitals, your nurses, your physical therapists, all your health care delivery folks will get together and decide how much they would charge for delivering your health care from A to Z.

The alliance would offer you three different types of programs: No. 1, the standard; No. 2, an HMO or PPO, health maintenance organization or preferred provider organization type coverage; and then No. 3, fee for service.

Fee for service is basically what we are doing right now. It is the type coverage you have right now where you pay for service a fee and then the doctor charges the insurance company for it. The only problem is, under this plan, nobody will be going under a fee-for-service program, because the economies of scale will all be under the standard plan.

Now, what coverage is provided under the standard plan? Do not think standard means economy. I would call it deluxe, where I come from, but up here in Washington, they call the following standard coverages: Well baby care, hospice, no limit outpatient care, catastrophic care, home health care, long-term care, rehabilitation services, eye glasses for children, substance abuse, preventive care, abortion and massage therapy. That is the standard plan, and that is what is supposed to save us money. Hardly a basic policy by anybody's definition.

Now that I have described that, let me go into what the cost is. As we all know, the administration has been rather vague on how this plan will be financed and what sort of taxes will be raised as a result of it. The one thing that the President stood up here a few feet behind me and said is there would be no broad-based new taxes. Well, broad-based taxes in many respects are the fairest kind to have, and it is the kind that would ask for the smallest amount of contribution.

Instead, the President said we are going to raise taxes on cigarettes. Well, for you smokers out there, you are going to need to triple and quadruple your smoking consumption, because at current consumption we will only pay for about 5 percent of the care. Let us not fool ourselves. We can beat up on tobacco and cigarette smokers all we want. It is not going to do a thing. It is not going to carry the burden. It will not finance this massive new bureaucracy and plan.

The President also talked about a 12-percent reduction in Medicaid and Medicare costs. Now, they did not quite define that. We are not sure exactly what they mean by that.

Another thing that they talked about was controlling the premiums paid to insurance companies by paying less for claims.

According to Ira Magaziner, as quoted in the New York Times, "This will cut our waste and reduce overpayments to doctors."

This is extremely important. I want to digress a little bit on this point for that reason.

I have a woman that I met in my district in Savannah, GA. She is a German citizen, Her name is Ann Schweistris. Unfortunately, I have a difficult time pronouncing regular English, with my accent, so I cannot venture into German.

Her father was 81 years old and had a heart attack in Germany. He went to get health care. He was still living. He needed a bypass. He needed some medical procedures.

Unfortunately, because he was not a wage earner anymore, he was put in the back of the line. He went along back and forth with the socialist health care system with the nationalized medicine in Germany, trying to get in the front of the line so he could get treatment. He did not. Five months later he died. He did it because the Government of Germany decided they were going to spend x number of dollars on heart care and bypasses and because they put a limit on it. Then they would have to decide who was going to get those dollars and who was not.

□ 1850

From a nonhumanitarian point of view, certainly a 33-year-old wage earner would come in front of an 81-year-old man who was no longer a wage earner. One of them paid taxes, the other one did not. So her father died a few years earlier than he would have. You can imagine the pain and agony that that led to her family.

That is why Ann lives in the United States of America today, yet she is horrified that we seem to be going in the direction of Germany and other countries that have nationalized medicine, because of this one part, that we will paying less to insurance companies, for claims, and that is going to be a trickle-down effect. The big word for it is rationing, plain and simple.

Another thing, to get back to my list of other coverages or other ways that the President wants to cover the cost, by the year 2000 no prices will be allowed to increase except for inflation; again, more rationing.

A decrease in fraud. We all want to decrease fraud. Tell us how. I support that.

Then there is the grind on small businesses. Employers, small businesses, will pay 80 percent of the health care premium of their employees up to 7.9 percent of their payroll. The other 20 percent will be paid for by employees.

Many employers do not pay that benefit right now. It is part of their compensation package. The President is going to jump that line of contractual obligation between employer and employee and say, "This is how you have to do it." There is not discretion at all for businesses.

Many of the small businesses that I have talked to, the pet stores, the clothing stores, the car service garages, they are saying, "Forget it. We will close down. Our margin is too thin right now. We cannot afford to pick up 80 percent of the cost."

Finally, and the one that even some of the liberal media institutions in the Washington area have a difficult time with, they said that $51 billion will come from the fact that businesses will be making more profits because they will not have to pay higher health care premiums. Therefore, they will be paying new taxes, and we think this is going to be in the neighborhood of $51 billion.

Those are pretty nebulous ideas. I would love to have an airplane, I would go home, go back and forth from my district to Georgia and Washington each week. I would love to have an airplane and just commute a little more often, but the fact is I cannot afford an airplane. This is what happens, though, when you let your heart do your thinking for your head. You have to merge the two. You have to have humanitarian goals, but you have to have a bottom line. You have to remember that this is paid for with tax dollars that are competing with dollars for everything else.

Let me talk about the good points for this plan and the bad points. A good point is that the President has brought this to the front burner, and that Congress has let the issue become predominant. There have been other health care reform bills introduced in the past, both by Republicans and Democrats, but it has never gotten to the front burner. I salute the administration for that.

The portability, I like the idea that somebody will not have job loss. I think that is a good idea. Certainly I would not doubt the President's sincerity. I think he does want the American people to save money. He does want to increase security. I think those are all good.

Let me get down to the down side. I know I have already made a few comments along the way about that. Just to take a few examples, choice. You will not have your choice under the President's plan. He is saying that you will have choice, but remember, he called a tax increase a contribution, so you have to watch what he is saying.

You will have your choice of doctors if your doctors are all in the same network. The average American family generally has an internist, has a gynecologist, and has a pediatrician. If all three of those doctors are in the same network and you happen to choose that network, yes, you have the choice.

However, if they go to different networks, you will not have your choice in doctors. That is extremely important to remember.

The rate discrimination that I talked about earlier, what motivation is there for you to take care of yourself and have an annual mammogram or Pap smear or prostate test and exercise and drink the right things, eat the right things, if your premium is going to be the same. It does not matter. Certainly you are going to enjoy good health for it, but I think we should really encourage people to remember, in America, if you try a little harder, there is a break to it, but that incentive is taken out of this plan.

Increased bureaucracy. There is absolutely no question that this plan will increase the bureaucracy. In my area we have a lot of beautiful live oak trees. All of them started out with a tiny little acorn, and they grew.

That creates something real pretty, but a bureaucracy grows the same way, and it does not create something as pretty as a live oak tree. That is what this will do.

You can talk about your seven-member National Health Care Board, but it is going to grow. These alliances are going to grow. They are quasi-governmental, even from the inception. The track record of Government is to grow and grow and grow, and this will create more bureaucracy.

Another problem, it will preempt State laws. In my State, in Georgia, the Georgia insurance commissioner, the Governor, the chairman of the insurance committee in the legislature are all working for health care reform. They have different ideas on it. They have different plans, but they are working on that reform. Under this scenario, whatever they do will be lost, because this will basically preempt State laws and supersede whatever reforms are passed on the State level.

What is bad about that? If the State of Georgia does something that is not in Georgia's best interests, it can turn around and reverse that policy quickly. However, if it comes out of Washington, you are basically stuck with it. What works in Georgia might not work in South Carolina. What works in Alaska, which is a sparsely populated State, won't necessarily work in New York. What works in California is going to be different from Arizona. That is why we have State governments and State legislatures, but this plan will wipe all that out.

Mr. Speaker, finally, let me remind the Members, you would have to surrender your current policy. If you are happy with your current policy, it will not matter. You have to give it up and buy through the alliance. These are problems with the President's plan that we all need to be aware of, because this plan is going to affect all of us.

Alternatives: I am happy to say there are a lot of alternatives. The one I prefer is the one that BOB MICHEL has introduced in the House. It has a number of aspects. No. 1, for the universal appeal of it, it says that small businesses will have to offer health care to their employees, but the financing mechanism and the choice of coverage and plans will strictly be up to the employee and the employer, but they will have to offer it. That dialog will take place.

The fact is, many small businesses, for various reasons, do not want health care. They may be getting it through their spouse's policy, they may be willing to chance it, but that is their choice. This is America. This is a free country. The Government should not be telling you what you can and cannot do in terms of health care.

Another part of the Michel bill, which actually is in the Clinton plan, and I do need to point that out, is 100 percent deductibility for small businesses. Currently, proprietorships, partnerships, sole proprietors, they do not have the full deductibility of the health care premium the way large corporations do. This plan and the Clinton plan will give them 100 percent deductibility. I think that is good.

The Michel plan also has portability of coverage. I believe that is good. The Michel plan, however, allows you to keep your current coverage if you want to do that. The Michel plan also has a Medisave account.

The way a Medisave account works is that the employer, instead of just funding strictly a premium which goes to an insurance company actually would buy a catastrophic coverage for you, a policy, and then have the balance that would fund a large deductible, a $2,000 or $3,000 deductible, so the employee would be covered in the event there was some catastrophic illness, but in the meantime for your broken arms and your stitches and colds and so forth, the employee would be spending money out of that fund, and whatever is left over would go straight to the employee's pocket.

The idea behind that, and one that I think is very important, is that in America we can tell you how much cars cost, even though we don't necessarily own that type of car. We can tell you how much houses cost in another neighborhood. We can talk to you about the price of a new TV.

When it comes to a broken arm, no one has any idea. You don't know if it is a $50 medical cost to set an arm or if it is $500 or if it is $272. We don't know. Let us educate and empower consumers so they can know what a fair price is and they can shop for a fair price.

Given that opportunity, I believe we will have competition in health care and we will drive the cost down.

Finally, the Michel plan allows small businesses and institutions to form various purchase groups. These various purchase groups would act as clusters so that small business could enjoy the economies of scale that large corporations enjoy.

Those are some of the alternatives offered by the Michel plan. Again, there are a lot of plans. There are plans. There is one by Senator CHAFEE, WELLSTONE, COOPER, Senator GRAHAM. The gentleman from Iowa [Mr. GRANDY] has one in the House. I think it is important. There are a lot of plans. I think this is very important, because we are talking about such a large issue, an issue that touches every single American.

Although I think it is important, we always talk about 37 million people who do not have health care, but we never talk about the 215 million who do have health care.

□ 1900

One of the things that was in the Investors Business Daily on October 25 was an article that discussed the composition of the 37 million people, and in it they talked about the fact that the majority of them are workers who have temporarily lost their benefits because they are in between jobs, and then it said the other portion of the 37 million are 18-year-old college students, nonworkers, and spouses and indigents. So we are not necessarily talking about the same 37 million people. We are talking about a 37 million group that passes through, that turns over a lot.

I would never stand here and tell you that we do not need health care reform, but I would stand here and say we have got to look at everything very, very carefully.

Incidentally, the same article says that in 1986 the level of uninsured was the same as it is 1993. We should have started health care reform in 1986, obviously. But I only stress this to say the urgency is no worse today than it was 5 or 6 years ago. We talk about medical inflation. Here is a statistic in the same article that said that in 1981 the health care inflation was 9.6 percent, and in 1974 it was 12 percent.

All of these statistics get somewhat lost in the argument, and that is why I want to bring them out, because I think it is very important. I am glad again that the President has brought this important debate before Congress and the American people. But I want to say that there are a lot of alternatives, and before we run off into a Socialist medicine program we need to be very careful and preserve the good things about our current delivery system, and try to stay away from more Government.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted for:

Mr. ROMERO-BARCELO (at the request of Mr. GEPHARDT) for today and the balance of the week, on account of official business.

Mr. UNDERWOOD (at the request of Mr. GEPHARDT) for today and the balance of the week, on account of official business.

Mr. LEWIS of Florida (at the request of Mr. MICHEL) for today, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WALKER) to revise and extend their remarks and include extraneous material:)

Mr. HOEKSTRA, for 60 minutes, today.

Mr. WALKER, for 5 minutes, today.

(The following Members (at the request of Ms. BYRNE) to revise and extend their remarks and include extraneous material:)

Mr. RICHARDSON, for 5 minutes each day, on November 8, 9, 10, 15, 16, and 17.

Mr. SKELTON, for 5 minutes, today.

Mr. FALEOMAVAEGA, for 5 minutes, today.

Mr. GEPHARDT, for 60 minutes each day, on November 9 and 10.

Mr. FINGERHUT, for 60 minutes each day, on November 9 and 10.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. WALKER) and to include extraneous matter:)

Mr. GINGRICH in nine instances.

Mr. FAWELL.

Mr. BOEHLERT.

Mr. THOMAS of Wyoming.

Mr. CRANE.

Mr. PACKARD.

Mr. SOLOMON in two instances.

Mr. WELDON in two instances.

Mr. YOUNG of Florida.

Mr. BAKER of California.

Mr. GALLEGLY.

Mr. LEWIS of Florida.

Ms. MOLINARI.

Mr. BEREUTER.

Mr. GALLEGLY.

(The following Members (at the request of Ms. BYRNE) and to include extraneous matter:)

Mrs. MALONEY in four instances.

Mr. DE LUGO.

Ms. LONG.

Mr. JACOBS.

Ms. DELAURO.

Mr. RICHARDSON.

Mr. TRAFICANT.

Mr. PARKER.

Mr. DE LA GARZA.

Mr. POSHARD.

(The following Members (at the request of Mr. KINGSTON) and to include extraneous matter:)

Mr. TEJEDA.

Mr. STUDDS.

Mr. GEPHARDT.

Mr. KLEIN.

Mr. ORTIZ.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 175. An act to amend title 18, United States Code, to authorize the Federal Bureau of Investigation to obtain certain subscriber information.

H.R. 1345. An act to designate the Federal building located at 280 South First Street in San Jose, California, as the "Robert F. Peckham United States Courthouse and Federal Building."

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 616. 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.

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval a joint resolution of the House of the following title:

On November 4, 1993:

H.J. Res. 205. Joint resolution designating the week beginning October 31, 1993, as "National Health Information Management Week."

ADJOURNMENT

Mr. KINGSTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 2 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, November 9, 1993, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2112. A letter from the Chairman, Farm Credit Administration, transmitting a report of a violation of the Anti-Deficiency Act which occurred in the Farm Credit Administration, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

2113. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled "Review of the University of the District of Columbia President's Representation Fund for FY 1990, 1991 and 1992," pursuant to D.C. Code, section 47-117(d); to the Committee on the District of Columbia.

2114. A letter from the Auditor, District of Columbia, transmitting a report entitled "Analysis of the District of Columbia Water and Sewer Utility Administration's Commercial and Residential Accounts Receivable," pursuant to D.C. Code, section 47-117(d); to the Committee on the District of Columbia.

2115. A letter from the Auditor, District of Columbia, transmitting a report entitled "Comparative Analysis of the Structure of the District of Columbia Water and Sewer Enterprise Fund," pursuant to D.C. Code, section 47-117(d); to the Committee on the District of Columbia.

2116. A letter from the Executive Director, District of Columbia Retirement Board, transmitting financial disclosure statements of Board members, pursuant to D.C. Code, section 1-732, 1-734(a)(1)(A); to the Committee on the District of Columbia.

2117. A letter from the Secretary of Education, transmitting a notice of final regulations for the Talent Search Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

2118. A letter from the Secretary of Energy, transmitting the report on the status of Exxon and Stripper Well oil overcharge funds; to the Committee on Energy and Commerce.

2119. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed lease of defense articles to Australia (Transmittal No. 4-94), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

2120. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of the Deputy Secretary's determination and justification that it is in the national interest to grant assistance to Guatemala, pursuant to 22 U.S.C. 2370(q); to the Committee on Foreign Affairs.

2121. A communication from the President of the United States, transmitting the bimonthly report on progress toward a negotiated solution of the Cyprus problem, including any relevant reports from the Secretary General of the United Nations, pursuant to 22 U.S.C. 2373(c); to the Committee on Foreign Affairs.

2122. A letter from the Comptroller General, General Accounting Office, transmitting the list of all reports issued or released in September 1993, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

2123. A letter from the Director, Office of Management and Budget, transmitting a report on enacted appropriations legislation pursuant to section 251(a)(7) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended; to the Committee on Government Operations.

2124. A letter from the Chairman, U.S. Nuclear Waste Technical Review Board, transmitting a report pursuant to the Inspector General Act Amendment of 1988, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2125. A letter from the Chairman, Pennsylvania Avenue Development Corporation, transmitting the 1992 annual report of the Corporation, pursuant to 40 U.S.C. 880(a); to the Committee on Natural Resources.

2126. A letter from the Director, Administrative Office of the United States Courts, transmitting a draft of proposed legislation to make improvements in the operation and

administration of the Federal courts, and for other purposes; to the Committee on the Judiciary.

2127. A letter from the Secretary of Commerce, transmitting the second report on the impact of increased aeronautical and nautical chart prices, pursuant to 44 U.S.C. 1307(a)(2)(A); to the Committee on Merchant Marine and Fisheries.

2128. A letter from the Secretary of Labor, transmitting the quarterly report on the expenditure and need for worker adjustment assistance training funds under the Trade Act of 1974, pursuant to 19 U.S.C. 2296(a)(2); to the Committee on Ways and Means.

2129. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a report on the nondisclosure of safeguards information for the quarter ending September 30, 1993, pursuant to 42 U.S.C. 2167(e); jointly, to the Committees on Energy and Commerce and Natural Resources.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Submitted November 5, 1993]

Mr. HAMILTON: Committee on Foreign Affairs. House Concurrent Resolution 170. Resolution directing the President pursuant to section 5(c) of the War Powers Resolution to remove United States Armed Forces from Somalia by January 31, 1994; with amendments (Rept. 103-329). Referred to the Committee of the Whole House on the State of the Union.

[Submitted November 8, 1993]

Mr. MINETA: Committee on Public Works and Transportation. H.R. 3225. A bill to support the transition to nonracial democracy in South Africa; with amendments (Rept. 103-296, Pt. 2). Ordered to be printed.

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 3161. A bill to make technical amendments necessitated by the enactment of the Older Americans Act Amendments of 1992, and for other purposes; with an amendment (Rept. 103-330). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 457. A bill to provide for the conveyance of lands to certain individuals in Butte County, CA; with an amendment (Rept. 103-331). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 3252. A bill to provide for the conservation, management, or study of certain rivers, parks, trails, and historic sites, and for other purposes; with amendments (Rept. 103-332). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee of Conference. Conference report on H.R. 3167. A bill to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes (Rept. 103-333). Ordered to be printed.

Ms. SLAUGHTER: Committee on Rules. House Resolution 298. Resolution waiving points of order against the conference report to accompany the bill (H.R. 3167) to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes (Rept. 103-334). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 299. Resolution providing for consideration of the bill (H.R. 1036) to amend the Employee Retirement Income Security Act of 1974 to provide that such act does not preempt certain State laws (Rept. 103-335). Referred to the House Calendar.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2178. A bill to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1994, 1995, 1996, and 1997; with amendments (Rept. 103-336 Pt. 1). Ordered to be printed.

Mr. MINETA: Committee on Public Works and Transportation. H.R. 3276. A bill to make technical corrections to title 23, United States Code, the Federal Transit Act, and the Intermodal Surface Transportation Efficiency Act of 1991, and for other purposes; with an amendment (Rept. 103-337). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FAWELL:

H.R. 3458. A bill to amend the Occupational Safety and Health Act of 1970 to apply its provisions to the House of Representatives and instrumentalities of Congress; jointly, to the Committees on Education and Labor and House Administration.

By Ms. EDDIE BERNICE JOHNSON of Texas:

H.R. 3459. A bill to amend the Federal Deposit Insurance Act to permit the continued insurance of deposits in minority- and women-owned banks by the Bank Deposit Financial Assistance Program; to the Committee on Banking, Finance and Urban Affairs.

By Mr. RAHALL (for himself and Mr. SHUSTER):

H.R. 3460. A bill to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1994, 1995, 1996, 1997, and 1998, and for other purposes; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

By Mrs. MALONEY:

H.R. 3461. A bill to amend part E of title IV of the Social Security Act to require States to administer qualifying examinations to all State employees with new authority to make decisions regarding child welfare services; to the Committee on Ways and Means.

H.R. 3462. A bill to amend part E of title IV of the Social Security Act to expedite the permanent placement of foster children by requiring States, at the time of a child is placed in foster care, to find any absent parent of the child and evaluate the ability of the absent parent to provide a suitable home for the child; to the Committee on Ways and Means.

H.R. 3463. A bill to amend part E of title IV of the Social Security Act to facilitate the placement of foster children in permanent kinship care arrangements; to the Committee on Ways and Means.

By Mr. DREIER:

H.R. 3464. A bill to provide comprehensive measures against arson; jointly, to the Committees on the Judiciary and Agriculture.

By Mr. STUDDS (for himself and Mr. DE LA GARZA):

H.R. 3465. A bill to amend the Federal Water Pollution Control Act to improve the protection of wetlands and thereby restore and maintain the physical, chemical, and biological integrity of the Nation's waters, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries, Agriculture, and Public Works and Transportation.

By Mr. OBEY:

H.R. 3466. A bill to amend title 18, United States Code, to prohibit the possession of a handgun or handgun ammunition by, or the private transfer of a handgun or handgun ammunition to, a juvenile; to the Committee on the Judiciary.

By Mr. RICHARDSON:

H.R. 3467. A bill to establish a health care reform trust fund in the Treasury of the United States: jointly, to the Committees on Energy and Commerce, Ways and Means, and Government Operations.

By Ms. SLAUGHTER:

H.R. 3468. A bill to amend the Public Health Service Act with respect to employment opportunities at the National Institutes of Health for women who are scientists, and for other purposes; to the Committee on Energy and Commerce.

By Mr. THOMAS of Wyoming (for himself, Mr. TAYLOR of North Carolina, and Mr. YOUNG of Alaska):

H.R. 3469. A bill to provide for the consideration of a petition for Federal Recognition of the Lumbee Indians of Robeson and adjoining counties, and for other purposes; to the Committee on Natural Resources.

By Mr. MICHEL (for himself, Mr. GINGRICH, Mr. THOMAS of California, Mr. LIVINGSTON, Mr. BAKER of California, Mr. BALLENGER, Mr. BARRETT of Nebraska, Mr. BEREUTER, Mr. BLUTE, Mr. CALVERT, Mr. CASTLE, Mr. COLLINS of Georgia, Mr. COX, Mr. DICKEY, Mr. DOOLITTLE, Mr. EWING, Mr. FRANKS of New Jersey, Mr. GALLEGLY, Mr. GEKAS, Mr. GOODLING, Mr. GOSS, Mr. GREENWOOD, Mr. HASTERT, Mr. HOKE, Mr. HORN of California, Mr. HOUGHTON, Mr. HUTCHINSON, Mr. INGLIS of South Carolina, Mr. KOLBE, Mr. MCCRERY, Mr. MCKEON, Mr. MILLER of Florida, Mr. MOORHEAD, Mr. OXLEY, Mr. PACKARD, Mr. PORTMAN, Mr. QUINN, Mr. RAMSTAD, Mr. ROTH, Mr. SAXTON, Mr. SCHIFF, Mr. SHAYS, Mr. SMITH of Texas, Mr. SMITH of Michigan, Mr. UPTON, and Mr. WALSH):

H.R. 3470. A bill to amend the Federal Election Campaign Act of 1971 to ban activities of political action committees in Federal elections, and for other purposes; to the Committee on House Administration.

By Mr. GEPHARDT:

H. Con. Res. 176. Concurrent resolution to recognize and encourage the convening of a National Silver-Haired Congress; to the Committee on Education and Labor.

By Mr. WELDON (for himself, Mr. ORTIZ, Mr. STUDDS, Mr. FIELDS of Texas, Mr. YOUNG of Alaska, Mr. SAXTON, Mr. LAUGHLIN, Mr. RAVENEL, Mr. COBLE, Mr. MCCLOSKEY, Ms. SCHENK, Mr. INHOFE, Mr. COPPERSMITH, Mr. HEFLEY, Mrs. FOWLER, Mr. GOSS, Mr. SKEEN, and Mr. SMITH of Texas):

H. Con. Res. 177. Concurrent resolution calling for the United States to amend the London Convention to ban the ocean dumping of low-level radioactive waste, and for other purposes; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 302: Mrs. VUCANOVICH.

H.R. 322: Mr. LAZIO.

h.r. 323: Mr. BAKER of California.

H.R. 401: Mr. ARMEY.

H.R. 429: Mr. ALLARD, Mr. BILIRAKIS, Mr. MOORHEAD, Mr. STEARNS, and Mr. STUMP.

H.R. 513: Mr. PORTMAN.

H.R. 818: Mr. PAYNE of New Jersey, Mr. OWENS, Mr. TOWNS, Mr. SCOTT, and Mr. FILNER.

H.R. 898: Mr. GOODLATTE, Mr. SCHAEFER, Mr. CHAPMAN, Mr. SCOTT, and Mr. WILSON.

H.R. 1012: Mr. YATES.

H.R. 1046: Mr. ROMERO-BARCELO and Ms. VELAZQUEZ.

H.R. 1047: Mr. BROWN of California and Ms. VELAZQUEZ.

H.R. 1055: Mrs. JOHNSON of Connecticut.

H.R. 1174: Ms. WOOLSEY.

H.R. 1354: Mr. BACCHUS of Florida, Mr. FILNER, Ms. ROYBAL-ALLARD, Mr. WAXMAN, Mr. HAMBURG, Ms. WOOLSEY, and Mr. MORAN.

H.R. 1472: Ms. HARMAN.

H.R. 1504: Mr. BROWN of California.

H.R. 1552: Mr. JOHNSON of South Dakota and Mr. EMERSON.

H.R. 1559: Mr. ACKERMAN.

H.R. 1645: Mr. ENGEL, Mr. FINGERHUT, and Ms. ENGLISH of Arizona.

H.R. 1709: Mr. NADLER and Mr. CRAPO.

H.R. 1957: Mr. GINGRICH.

H.R. 2092: Mr. FARR.

H.R. 2543: Mr. FRANK of Massachusetts.

H.R. 2572: Mr. TORRES.

H.R. 2586: Ms. PELOSI and Mr. EDWARDS of California.

H.R. 2599: Mr. WYNN and Mr. HAMBURG.

H.R. 2612: Mr. MATSUI and Mr. HAMBURG.

H.R. 2613: Mr. FROST and Mr. LIPINSKI.

H.R. 2638: Mr. EDWARDS of California, Mr. MCCLOSKEY, Mr. WAXMAN, Mr. HOCHBRUECKNER, Mr. BROWN of California, and Mr. RAHALL.

H.R. 2641: Ms. CANTWELL and Mr. WILLIAMS.

H.R. 2662: Mr. FIELDS of Louisiana, Mr. FORD of Tennessee, Mrs. CLAYTON, Mr. WHEAT, Mr. HILLIARD, Mr. THOMPSON, Mr. CONYERS, and Mr. EVANS.

H.R. 2702: Mr. RICHARDSON.

H.R. 2706: Mr. GEJDENSON, Mr. INSLEE, Mr. HAMBURG, and Mr. GUTIERREZ.

H.R. 2735: Ms. KAPTUR.

H.R. 2803: Mr. GLICKMAN, Mr. LEHMAN, Mr. DEUTSCH, Mr. MCCRERY, and Mr. BURTON of Indiana.

H.R. 2834: Ms. MARGOLIES-MEZVINSKY.

H.R. 2835: Mr. MEEHAN and Ms. MARGOLIES-MEZVINSKY.

H.R. 2860: Mr. OXLEY and Mr. HUTCHINSON.

H.R. 2880: Mr. BAKER of California.

H.R. 2884: Mr. KOPETSKI.

H.R. 2898: Mr. TORRES.

H.R. 2941: Ms. DANNER, Mr. LIGHTFOOT, and Mr. ROBERTS.

H.R. 2968: Mr. DEAL and Mr. MINGE.

H.R. 3005: Mrs. MEYERS of Kansas, Mr. FIELDS of Texas, and Mr. MILLER of Florida.

H.R. 3030: Mr. ROGERS.

H.R. 3041: Mr. BONIOR, Mr. REED, and Mr. FINGERHUT.

H.R. 3070: Mr. OBERSTAR, Mr. SKEEN, Mr. INSLEE, Mr. BARLOW, Mr. MOLLOHAN, Mr. JEFFERSON, Mr. EVANS, and Mr. LANCASTER.

H.R. 3087: Mr. MCNULTY and Mr. BARRETT of Wisconsin.

H.R. 3102: Mr. TOWNS, Mr. GLICKMAN, Mr. KLECZKA, Mr. OBERSTAR, Ms. KAPTUR, Mr. BARLOW, Mr. BURTON of Indiana, Mr. COBLE, Mr. COLEMAN, Mr. ENGLISH of Oklahoma, Mr. HALL of Texas, Mr. INSLEE, Mr. INHOFE, Mr. ISTOOK, Mr. LEWIS of California, Mr. LEWIS of Florida, Mr. PAYNE of Virginia, Ms. PRYCE of Ohio, Mr. ROGERS, Mr. SLATTERY, Mr. VALENTINE, Mr. VOLKMER, Mr. WILLIAMS, and Mr. ZELIFF.

H.R. 3109: Mr. MARTINEZ.

H.R. 3138: Mr. COPPERSMITH.

H.R. 3158: Mr. FILNER and Mr. FROST.

H.R. 3219: Ms. BYRNE, Mr. BONIOR, Mrs. MINK, Mr. LIPINSKI, Mr. FILNER, Mr. MURPHY, Mr. HASTINGS, Mr. DEFAZIO, Mr. PAYNE of New Jersey, Ms. FURSE, Mr. SANDERS, Mr. PALLONE, Mr. HINCHEY, and Mr. EVANS.

H.R. 3259: Mr. KLUG, Mr. FOGLIETTA, Mr. COPPERSMITH, and Mr. LIPINSKI.

H.R. 3303: Mr. HAMBURG, Mr. MILLER of California, Mrs. UNSOELD, Mr. HUGHES, Mr. BROWN of California, Ms. WOOLSEY, Mr. TAYLOR of Mississippi, Mr. FILNER, Mr. WALSH, and Mr. GENE GREEN of Texas.

H.R. 3314: Mr. KREIDLER, Ms. BYRNE, Mr. FOGLIETTA, Ms. PELOSI, Mr. GUNDERSON, Mr. DELLUMS, Mr. EVANS, Ms. SHEPHERD, Mrs. SCHROEDER, Mr. SWETT, Mr. KOPETSKI, Mr. BILBRAY, and Mr. STARK.

H.R. 3320: Mr. MCKEON and Mr. SENSENBRENNER.

H.R. 3357: Mr. RAMSTAD, Mr. JACOBS, Mr. PETRI, Mr. SCHIFF, Mr. MANN, Mr. TORKILDSEN, and Mr. MCCANDLESS.

H.R. 3363: Mr. PETERSON of Florida, and Mrs. LOWEY.

H.R. 3364: Mr. DIAZ-BALART, Mr. HASTINGS, Ms. BROWN of Florida, Mr. FRANK of Massachusetts, Mr. FOGLIETTA, Mr. DELLUMS, Mr. CONYERS, Mr. STARK, and Mr. DEUTSCH.

H.R. 3370: Mr. OWENS and Ms. VELÁZQUEZ.

H.R. 3373: Mr. SWIFT and Mr. GREENWOOD.

H.R. 3374: Mr. SWIFT and Mr. GREENWOOD.

H.R. 3392: Mr. CLEMENT and Mr. EWING.

H.R. 3421: Mr. FIELDS of Texas, Mr. BONILLA, Mr. MILLER of Florida, and Mr. EMERSON.

H.R. 3435: Mr. DEUTSCH, Mr. BARRETT of Wisconsin, Mr. BERMAN, and Ms. KAPTUR.

H.J. Res. 75: Mr. CASTLE.

H.J. Res. 113: Mr. HOCHBRUECKNER and Mr. HUNTER.

H.J. Res. 139: Mr. GORDON, Mr. REED, Mr. SWETT, Ms. BROWN of Florida, Mr. MACHTLEY, Mr. BUNNING, Mr. KLINK, Mr. LANTOS, Mr. RAVENEL, Mr. SANDERS, Mr. KLUG, Mr. LEWIS of Florida, Ms. PRYCE of Ohio, Mr. SKEEN, Mr. NUSSLE, Mr. GRANDY, Mr. RAHALL, Mr. KLECZKA, Mr. MCCLOSKEY, Mr. KOPETSKI, Mr. MCCOLLUM, Mr. RICHARDSON, Mr. EVERETT, Mr. BROWN of California, Mr. OBERSTAR, Mr. DICKEY, Mr. POSHARD, Mr. LIVINGSTON, Mr. CARDIN, Mr. ABERCROMBIE, Mr. SARPALIUS, Mr. LEACH, Mr. HAYES, Mr. PAYNE of New Jersey, Mr. MINETA, Mr. MURPHY, Mr. MEEHAN, Miss COLLINS of Michigan, Mr. GILMAN, Mr. KILDEE, Mr. LIPINSKI, Mr. HUNTER, Mr. POMEROY, Mr. TANNER, Mr. TOWNS, Mrs. VUCANOVICH, Mr. WAXMAN of California, Ms. SNOWE, Mr. SPRATT, Mr. SMITH of Iowa, and Mr. PALLONE.

H.J. Res. 185: Ms. MARGOLIES-MEZVINSKY.

H.J. Res. 216: Mr. CLINGER, Mr. MCCRERY, Mr. ROHRABACHER, Mr. BARTON of Texas, Mr. BURTON of Indiana, Mr. CALLAHAN, Mr. DELAY, Mr. GRANDY, Mr. HORN of California, Mr. LEWIS of California, Mr. SHAW, Mr. SHAYS, Mr. ZIMMER, and Mr. SPRATT.

H.J. Res. 234: Mr. BORSKI and Mr. KLUG.

H. Con. Res. 147: Ms. FURSE.

H. Res. 237: Mr. GINGRICH, Mr. GOSS, Mr. HUNTER, Mr. ISTOOK, Mrs. JOHNSON of Connecticut, Mr. KIM, Mr. KYL, Mr. EVERETT, Mr. MCMILLAN, Mrs. MEYERS of Kansas, Mr. ROTH, Mr. SMITH of Michigan, Mr. THOMAS of Wyoming, Mr. UPTON, Mr. WALKER, Mr. KNOLLENBERG, Mr. WALSH, Mr. KLUG, Mr. STUMP, Mr. BUYER, Mr. CALVERT, Mr. CRAPO, and Mr. LIVINGSTON.

H. Res. 270: Mr. KING and Mr. BATEMAN.

H. Res. 281: Mr. BALLENGER, Mr. MACHTLEY, Mr. BOEHNER, Mr. BURTON of Indiana, Mr. CALVERT, Mr. CASTLE, Mr. WELDON, Mr. SKEEN, Mr. SMITH of Oregon, Mr. SPENCE, Mr. TORKILDSEN, Mr. CRAPO, Ms. PRYCE of Ohio, Mr. SAM JOHNSON, Mr. ARCHER, Ms. BYRNE, Mr. INHOFE, Mr. JOHNSON of South Dakota, Mr. EVERETT, Mr. FISH, Mrs. FOWLER, Mr. FRANKS of Connecticut, Mr. GALLO, Mr. MOORHEAD, Mr. PACKARD, Mr. QUINN, Mr. KASICH, Mr. KINGSTON, Mr. LEVY, Mr. LEWIS of California, Mr. KOLBE, Mr. LEACH, Mr. KILDEE, Mr. MONTGOMERY, Mr. COBLE, Mrs. MEYERS of Kansas, Mr. BARTON of Texas, Mrs. JOHNSON of Connecticut, and Mr. THOMAS of Wyoming.

SENATE—*Monday, November 8, 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 DANIEL K. AKAKA, a Senator from the State of Hawaii.

The PRESIDING OFFICER. Today's prayer will be offered by guest chaplain Rabbi Arthur Schneier, Park East Synagogue, New York City, NY.

PRAYER

The guest chaplain, Rabbi Arthur Schneier, Park East Synagogue, New York, NY, offered the following prayer:

Let us pray:

God bless America. But God needs man. The men and women in this Chamber, who are elected by the people, understand this truth. By their commitment and dedication to the American system, they are copartners with You, O Lord, in making America the land of freedom and opportunity.

We stand in prayer today on the eve of the 55th anniversary of Kristallnacht, the infamous day and night of broken glass. The terror of those hours is still etched into my soul as I recall, as a child in Vienna, the burning of synagogues and the burning of books, fires that ultimately ended with the burning of Jews.

Kristallnacht has taught us that the right of men and women to live in peace and dignity and respect is as essential as the very air we breathe. But these are not our human rights alone; they belong also to every member of the human family. For each one of us is linked to the other in a thousand ways.

Give us the wisdom, O God, to remember what went before; the U.S. Memorial Holocaust Museum, only a mile or so from this Capitol, is a monument to the collective memory of those who perished not so long ago, the victims of cruelty, of indifference, and of silence.

Help us, O God, to see with a clear eye what is happening now and to imagine what may yet happen tomorrow. Let us remember the words of the sage Hillel and his three sublime questions:

"If I am not for myself," he asked, "then who will be for me?

"But if I am only for myself, what am I?

"And if not now, when?"

If we in the blessed land do not act—as we must—in our own self-interest there will be none to do so. But if we act only for ourselves, we will have surrendered our moral sense and moral purpose as a nation. We can never go back to the days when we tried, and failed, to insulate and isolate ourselves against the world.

The spirit of America has captured the hearts and minds of people throughout the world. Let their faith in our way of life encourage us to guard and preserve our precious freedom.

Victory belongs not to evil but to good, not to indifference but to justice, not to darkness but to light, not to death but to life. And in that final victory, with Your help, O God, America will play its role.

Heavenly Father, bless this land. Bless the President, the Vice President, the Congress, and all who labor for peace, for justice, and for the freedom of mankind, all who have learned to remember, to listen, and to act.

In the words of the Psalmist, "Let your work be revealed to your servants, and your glory upon their children. May your favor, Lord our God, rest on us [and] establish for us the work of our hands."

And let us all say: 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 8, 1993.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. AKAKA 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 10 a.m., with the time to be under the control of the Senator from West Virginia [Mr. BYRD].

The Chair recognizes the Senator from West Virginia [Mr. BYRD].

THE BALANCED BUDGET AMENDMENT

Mr. BYRD. Mr. President, it seems that we live in an age of little reverence and less patience. It is an era of fast food and slick advertising slogans, of instant analysis and rapid information. In politics, it is a time of sound bites and media men.

The practical application of democracy as it has evolved, with its condensed messages and its blow-dried candidates, stands in stark contrast to the carefully crafted, intricate, thoughtful system envisioned by the Framers and given form by the written document known as the Constitution of the United States of America.

Representative democracy is a slow, complex, and cumbersome way of governing. Its strong point is not speed but stability. In a world enamored of instant gratification, 30-second political ads, 30-minute press conferences, rapid transit, fax machines, satellite communications, and a whole host of lifestyle subtleties that peddle speed and simplicity as invaluable commodities, I sometimes wonder if, as a people, we have somewhere lost the patience for representative democracy.

It is as if the perseverance to examine issues with meticulous care, considering and publicly debating all aspects until a solid consensus emerges, has gone out of style. Perhaps our ability to concentrate—the American attention span, if you will—has been shortened, rather like a child who has watched too much bad television. And there is all too much of that to watch.

Given our national fascination with time-saving devices that simplify our lives, it becomes easy to understand why intractable problems, without quick or obvious solutions, are especially frustrating to the American people. In many American families, both parents have to work just to make ends meet and then struggle to parcel out any leftover time, if there is any left over, to raise their children. The American people, frankly, are distracted by their own overly busy, fractured lifestyles, and the simple, quick solution is currently at a premium value.

Some in the political sphere have seized upon that distraction and have made hay out of offering one-liner solutions to the Nation's most complex problems. Some manipulative politicians have discovered that the simple,

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

the catchy, the obvious, the easy will sell like hot cakes to an American public frustrated by the demands of making a living and disappointed by a political system that no longer seems to matter in their own daily lives.

Is the American public weary of budget deficits? Yes. Pass a constitutional amendment to balance the budget; it is just that simple.

Our forefathers did not intend that the Constitution never be amended for all time. They provided an article, article V, which provides for the amending of that document if two-thirds of both Houses and three-fourths of the States give their approval to amending the Constitution. It can be done; it has been done. We have 27 amendments, 17 since the original 10 that we refer to as the Bill of Rights.

But we are not talking about that here. We are talking about an amendment that would burst at its seams the very pillars on which this constitutional system rests: The separation of powers and checks and balances. That is what it amounts to. That is what we are talking about here. Why do we not just throw out the Constitution and start all over, start out anew? Perhaps we would rather do it by stealth, under the cloak of a balanced budget amendment to the Constitution.

Mr. President, last Monday I came to this floor to speak against Senate Joint Resolution 41. If passed by the Congress and ratified by the States, the resolution, which proposes an amendment to the Constitution, would require that the Federal budget be in balance on an annual basis.

Section 1 of the proposed constitutional amendment reads: "Total outlays for any fiscal year shall not"—it does not say may not—"shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote."

In my remarks last week, I pointed out several of the dangers inherent in placing that kind of mandate in this Nation's basic charter. Today, I want to focus on one particular aspect of this measure, Senate Joint Resolution 41. Just as Toto pulled back the curtain to expose the not-so-mighty Wizard of Oz, the curtain must be pulled back on this resolution so that the American people, too, can see that it is political sorcery.

The language in the proposed constitutional amendment mandates that outlays of the Federal government shall not exceed receipts, and, to some, that probably sounds fairly straightforward. But if we accept that requirement, if we rivet that quack nostrum into the Constitution of the United States, then the obvious question is how do we ensure that in fact, outlays do not exceed receipts? How do we ensure that outlays do not exceed receipts? How are we supposed to comply with that constitutional mandate? Simply stating that outlays shall not exceed receipts is an empty incantation and will not make it happen. There would still need be some sort of enforcement mechanism.

Well, Mr. President, the proponents of this resolution tell us not to worry. They say, and quite correctly, that a constitutional amendment is not the place to put the particulars, put the details of how we achieve budget balance. Instead, we are told that section 6 of the proposed amendment requires the Congress to develop its own enforcement mechanism by passing the implementing legislation.

Section 6 reads as follows:

> The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

For Senators to understand what kind of wonder drug they are being asked to swallow, they need to truly understand that specific section of the resolution. I also believe that once the American people understand it, they will know that this amendment is nothing more—nothing more—than sleight of hand and political sorcery.

Section 6 of the resolution states that "The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts."

Again, Mr. President, such language would appear rather uncomplicated. Let us take a look at this sleight-of-hand mechanism. If we take a closer look, especially at the latter half of this, we will see that the entire premise of this amendment is as shaky as a house of cards. Indeed, in one single word—the word "estimates"—we find the achilles heel of the whole balanced budget amendment concept, be it Senate Joint Resolution 41 or some other version. The achilles heel is in the word "estimates."

If we follow the directive of section 6, then the central tenet of our enforcement mechanism, we would see, is to be based on "estimates of outlays and receipts." Now get that. "The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts." What the public needs to know is that, unlike most individuals who will receive a set salary or wage for the year and whose expenses are relatively stable, total outlays and total receipts of the Federal government are not known—and infact they cannot be known—at the beginning of any given fiscal year. It is impossible for them to be known at the beginning of any given fiscal year. All that the President and the Congress have to work with, when they begin to put the budget together, are estimates provided to them by the Office of Management and Budget and the Congressional Budget Office—estimates, nothing more.

If we have learned nothing else over the past 12 years, we have learned that actual outlays and actual receipts in any given year can and do vary from those estimates by billions of dollars. In fact, in most years, actual outlays and actual receipts do not even come close—do not even come close—to what the experts projected at the beginning of the fiscal year. As these charts will show, outlays, receipts, and deficits have consistently been misestimated in every one of the 12 years from fiscal year 1981 through fiscal year 1992, inclusive. No exception. In every one of those 12 years, the outlays, receipts and deficits have been misestimated.

Mr. President, before turning to the specifics of these charts, let me emphasize that the data presented here come from the independent and nonpartisan Congressional Budget Office. That office, created by the 1974 Congressional Budget Act, has a staff of 226 people and an annual budget of $22.3 million. By comparison, the Office of Management and Budget, which provides economic advice to the President, retains a staff of 560 people, and has an annual budget of $56.5 million. In any event, the Congressional Budget Office's primary function is to assist the Congress in the preparation and analysis of the budget by providing us with the economic and budget data we need throughout the year. As part of those duties, they are responsible for closely monitoring the government's deficits. But, as we shall see, despite all the expertise of the individuals who work in that office, they remain powerless—powerless—to provide the accuracy that would be required under this amendment.

Now let us look at the first chart. This first chart shows the difference between revenues as estimated in the first budget resolution for each of fiscal years 1981 through 1992, versus what those revenues actually turned out to be.

In fiscal year 1981, we can see that actual revenues collected by the Federal government were $11.2 billion less than what had been forecast in the budget resolution for that year. Eleven billion dollars, Mr. President! Then, in fiscal year 1982, revenues fell short of the estimate by $40 billion; for fiscal year 1983, the revenues fell short of the estimate by $65.3 billion; for fiscal year 1984, $13.1 billion; in fiscal year 1985, revenues fell $16.8 billion short; in fiscal year 1986, they were $26.6 billion short—$26.6 billion short of the estimates that had been projected; in fiscal year 1987, revenues were actually $1.7 billion greater than what had been expected; in fiscal year 1988, we can see that revenues again fell short of the projection by $23.8 billion; in fiscal year 1989, they were $26.4 billion greater than projected; in fiscal year 1990,

they were $34 billion short of the estimate projected; in fiscal year 1991, $55.7 billion short; and in fiscal year 1992, revenues were an unbelievable $77.5 billion short of the projection—$77.5 billion short of the estimate. The last column on the chart, to the viewer's right, shows that the average difference between actual and projected revenues for these 12 fiscal years amounted to $28 billion. The average difference per year between the revenues that were estimated and the actual revenues was $28 billion. So, Mr. President, on average, over the past 12 years, we have underestimated the amount of revenues available to the government by $28 billion every year.

The next chart shows, for the same 12 fiscal years of 1981 through 1992, the difference between estimated outlays as contained in the first budget resolution and what those outlays actually were. What was estimated, on the one hand, and what the outlays actually were, on the other hand.

Starting again on the viewer's left with fiscal year 2981, we can see that outlays were actually $46.9 billion more than what the budget resolution had estimated. In fiscal year 1982, outlays were $32.9 billion greater; in fiscal year 1983, outlays were $26.2 billion greater; in fiscal year 1984, outlays were $9.4 billion less than what had been estimated; in fiscal year 1985, outlays once again exceeded estimates by $4.8 billion; in fiscal year 1986, outlays exceeded estimates by $22.2 billion; in fiscal year 1987, $7.9 billion greater; in fiscal year 1988, the outlays exceeded the estimates by $21.7; in fiscal year 1989, the outlays were $43.2 billion greater than the estimates; in fiscal year 1990, the outlays were $85 billion greater than the estimates by the CBO at the beginning of the fiscal year. Only in fiscal years 1991 and 1992 were outlays appreciably lower than what had been estimated. As we can see, Mr. President, actual outlays in those 2 years were lower than estimates by $40.4 billion and $66.1 billion, respectively. But, even though they were lower than what had been expected, the point is that they still differed significantly from the original estimates. And finally, as the last column shows, the average difference—the average difference—between actual and estimated outlays for those 12 fiscal years amounted to $14.6 billion.

And that was the average difference, the average annual difference over the 12 years?

Chart 3 gives us the differences between actual budget totals and first budget resolution estimates for fiscal years 1981 through 1992—the actual deficits.

Since the difference between the revenues and outlays—the difference between the revenues on one hand and the outlays on the other—is what makes up the deficit, this third chart shows the difference between what the deficit was estimated to be and what it actually turned out to be for fiscal years 1981 through 1992.

For fiscal year 1981, the deficit was $58.1 billion larger than had been estimated; for fiscal year 1982, the deficit was $72.9 billion larger; for fiscal year 1983, the deficit was $91.5 billion higher than the estimated deficit. For fiscal year 1984, the difference narrowed some, but the deficit was still $3.7 billion larger; then in fiscal year 1985, it went back up to $21.6 billion larger than the estimate; in fiscal year 1986, the deficit was $48.8 billion larger; in fiscal year 1987, $6.2 billion larger; in fiscal year 1988, the actual deficit was $45.5 billion higher than the estimate; in fiscal year 1989, $16.8 billion larger than the estimate; in fiscal year 1990, the deficit was an astounding $119.1 billion higher than what had been estimated; in fiscal year 1991, Congress did better, but still the deficit was $15.3 billion larger than the estimate; and in fiscal year 1992, $11.4 billion larger. The last column, on the viewers' right, shows that the average difference for those twelve years was $42.6 billion. Mr. President, as we can see from this chart, in only 2 of those 12 years was the actual deficit within $10 billion of what had been estimated.

In only two of those years, 1984 and 1987, in only those 2 years, was the actual deficit within $10 billion of what had been estimated.

The point of these charts is to show that, no matter how hard the Congress, in the budget resolution, tries to estimate outlays and receipts, it has repeatedly failed.

In the days of the tyrannical monarchs, the heads at CBO would have gone off. The people at CBO would have lost their heads.

In 10 of the past 12 years, revenues have been lower than expected, and in 9 of the 12 years, outlays have been greater than expected.

Let me say that again. In 10 of the past 12 years, revenues have been lower than the estimates, and in 9 of the 12 years, outlays have been higher than the estimates.

And there is nothing in this resolution, nothing in this resolution, or any other resolution or any other version of the balanced budget amendment, that can correct that problem.

And there is not one among the 100 Senators who can come up with a version that will correct it; not one. All 100 Senators cannot come up with a constitutional amendment that would allow us to proceed on the basis of estimating receipts and outlays versus actual receipts and outlays and come out with accurate estimates. It cannot be done.

Despite knowing that the estimates we must work with will inevitably be in error, they are exactly what this resolution would have us rely on. Remember, it says right there in section 6 that we "may rely on estimates of outlays and receipts."

That is it. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

What does that mean? What are we talking about? Well, section 1 states, "total outlays for any fiscal year shall not"—shall not—"exceed total receipts for that fiscal year * * *"

And then how will it be done? The magic incantation is, in section 6, "The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts."

Despite knowing that the estimates we must work with will inevitably be in error, they are exactly what this resolution would have us rely on. It says so. It says we "may rely on estimates of outlays and receipts."

We already have a process for estimating revenues, outlays, and deficits prior to each fiscal year, and as we have seen, it is far from perfect. So what is Congress to do? It is ludicrous to think that, just because we pass this resolution, we will somehow come up with a new system that will accurately predict balanced budgets in advance of each fiscal year. It cannot be done.

Of course, it would be easy to say that all we need to do to correct the dilemma is to find more competent budget analysts. Let us throw the rascals out and hire a whole new batch of analysts. Unfortunately, it is not that simple. The plain truth is that the men and women who help put these figures together each year are not at fault. If not the analysts, then, who is the culprit? In simple terms, the miscalculations that we have seen displayed on these charts can be put into three categories: policy miscalculations, economic miscalculations, and technical miscalculations. Those are the terms used by the Congressional Budget Office to explain the differences between the budget estimates and what actually occurred each year: policy, economic, and technical.

The first of these terms refers to any portion of these differences that can be attributed to the Congress' passing legislation that was not accounted for in the estimates.

However, over the 12 fiscal years represented on these charts, policy differences accounted for the smallest amount of estimation error. In fact, enactment of legislation by the Congress since 1990 has been but a very small portion of the deficit error. The reason for this, Mr. President, is the pay-as-you-go requirement and the spending caps that were instituted with the 1990 Budget Enforcement Act and extended this summer with the 1993 Omnibus Budget Reconciliation Act. These are tough new requirements that have worked to restrain spending because

the only way around them is with the designation of an emergency.

The second reason for the difference between actual versus estimated revenues, outlays, and deficits, is attributed to the failure of budget analysts to anticipate the actual performance of the economy. I know that some Americans may not be aware of the fact that, when the budget is put together, it is based on certain economic assumptions. Factors such as the gross national product, the unemployment rate, the inflation rate, and interest rates must be assumed for the upcoming year. They have to be assumed because they cannot be known.

Therefore, if more Americans are unemployed than had been anticipated, the government will have larger outlays for unemployment insurance benefits, food stamps, and so on, than originally thought. This larger payout for these benefits would then be categorized as an economic error. Likewise, if interest rates unexpectedly go up, then the amount of interest we have to pay on the national debt would be higher. This, too, would be considered as an economic error. Nobody can help it. No one could foresee it.

To illustrate this point further, Mr. President, we need only look to the recent recession. Because that recession was deeper than expected, and the recovery weaker, revenues unexpectedly fell in fiscal year 1992 by $46.3 billion. In addition, these lower-than-projected revenues, due to the economy's failure to perform as expected, caused the fiscal year 1992 budget deficit to exceed the budget resolution's deficit estimate by $25.7 billion.

The third reason why estimates are inaccurate is due to what CBO calls technical differences. This category contains a number of items. Most notable among these are the miscalculations due to rising health care costs associated with the Medicare and Medicaid programs.

Mr. President, I know all of these explanations and numbers must be mind-numbing to the American people. But the fact that this material may be dry does not make it any less true or important. What is important, though, is that the public understands that errors in estimates attributable to economic factors accounted for 53.8 percent of the $42.6 billion average error in the deficit projection for the period 1981 to 1992, inclusive. What that means, simply, is that of all of the factors that account for deficit estimates being out-of-sync with reality, more than half of the average error over the past 12 years was due to factors that we will never be able to correct, unless, of course, someone has a crystal ball that can accurately tell us at the beginning of each year what the unemployment rate, the interest rate, the inflation rate, and the gross domestic product will be for that year. It cannot be done.

This is why I refer to the word "estimates" as being the achilles' heel of the balanced budget amendment. On the one hand, under this resolution we would be mandated to balance the Federal budget every year. But while we struggle with that difficult task, the economic information we have at our disposal will inevitably be in error, and more than half of that error will be due to factors beyond anyone's control. Mr. President, what a balanced budget amendment amounts to is like telling someone that they must drive their car 100 miles, but only giving them 80 miles worth of gas. No matter how hard they try, or how well-intentioned they may be, there is just no way on God's green Earth that they can make up that last 20 miles.

If we know, then, that we must balance the budget, and we also know that it is impossible to do that at the beginning of the year, it should be obvious to everyone that the Congress will be forced to pull out its old bag of tricks and bring back the smoke and mirrors and rosy scenarios to make this appear to work. They will not make it work. They will make it appear to work. So what can the American people expect to see if this catastrophe is inserted into the Constitution? Rather than rely on my own imagination, Mr. President, I would like to read to the Senate a few ideas that come from the Judiciary Committee's own report that accompanies Senate Joint Resolution 41.

This is the Judiciary Committee's own report that accompanies Senate Joint Resolution 21.

On page 11 of that report—get it and read it—Senate report 103-163, it is stated that: "This provision"—meaning section 6—"gives Congress an appropriate degree of flexibility in fashioning necessary implementing legislation." What is meant by "flexibility"?

The report continues: "For example, Congress could use estimates of receipts or outlays at the beginning of the fiscal year to determine whether the balanced budget requirement of section 1 would be satisfied, so long as the estimates were reasonable and made in good faith." Does this mean that if we pass a budget that is balanced, at least on paper, we need not worry if the budget becomes unbalanced during the course of the year? Is that the ideal we are supposed to include in our implementing legislation? If that is what the sponsors of this amendment have in mind, I think that is a very different approach than what the American people are expecting from a balanced budget amendment.

We have already seen that the estimates of revenues and outlays are invariably wrong, and that is understandable. But the committee report says "Congress could use estimates of receipts or outlays at the beginning of the fiscal year to determine whether the balanced budget requirement of section 1 would be satisfied, so long as the estimates were reasonable * * *."

Who knows what "reasonable" is? Who is to say what is reasonable? "* * * so long as the estimates were reasonable and made in good faith." How do we know whether or not they were made in good faith? Who is to say? Who is to know whether they were made in good faith?

The next sentence states: "In addition, Congress could decide that a deficit caused by a temporary, self-correcting drop in receipts or increase in outlays during the fiscal year would not violate the article." Mr. President, what that sentence says to me, is that, at the same time the proponents of this amendment are telling the American people that a constitutional amendment will bring about balanced budgets, they are telling the Congress that they do not expect us to practice what we preach. If we followed this advice and the Congress codified a broad definition of the words "temporary" and "self-correcting," then we will have found the escape hatch—aha, there it is, this is the escape doorthat we all know will be needed under this amendment. But will that be what the American people expect from this amendment?

The proponents have trumpeted from the Atlantic to the Pacific, from the Canadian border to the Gulf of Mexico: This is the wonder cure. This is the wonder drug, a prescription for budget deficits. A politician appearing before an audience, can ask the question: "How many of you believe that we ought to have a balanced budget amendment to the Constitution?" All hands will go up. "Well, I want to tell you, ladies and gentlemen, you elect me, and I will vote for a constitutional amendment to balance the budget."

Get your applause meters going. That is a sure way to ring the bell. This wonder drug is the way to get votes. It is not a sure cure, but it is a sure way to get votes.

Reading again from the report, the next sentence states:

> Similarly, Congress could state that very small or negligible deviations from a balanced budget would not represent a violation of section 1.

Now get that. Let us read it again.

> Similarly, Congress could state that very small or negligible deviations from a balanced budget would not represent a violation of section 1.

How small is small? How small is a negligible deviation?

It reminds me of Abraham when he intervened on behalf of the city of Sodom. He asked God if, perchance, there were 50 people in Sodom who were righteous people, would God spare Sodom. God answered yes. Abraham then asked, if there were less than 50, perchance 45, would you spare Sodom? God said, yes, if there are 45, He would spare Sodom. Perchance, if there were

40, would you spare Sodom? God answered, yes. Perchance 30? God answered in the affirmative. Perchance there were 20? God said He would spare Sodom if there were 20. If only 10, would you spare Sodom? God answered that if there were 10 righteous men in Sodom, He would spare the city.

This is the same thing in a reverse sort of way.

If Congress could state that very small, or negligible, deviations from a balanced budget would not represent a violation of section 1, how small is small?

Is it $5 billion? Yes. Well, if $5 billion is "small," how about $10 billion? If $10 billion is "negligible," what is wrong with $11 billion? OK. If $11 billion is small, how about $12 billion? And if $12 billion is only a "negligible" deviation, how about $15 billion? So, where do we stop?

Here, Mr. President, we have the suggestion that the Congress could just stand up and declare that certain amounts of deficit, as long as we determined them to be "negligible," are not in violation of the amendment.

A $25 billion deviation—Congress could say it is OK. It is "small." Small in comparison to what? When considered in the context of a budget that is $1.5 trillion, it is negligible.

But if we were to constitutionalize the mandate that outlays must not exceed receipts, any congressional attempt to deviate from that requirement would bring the moral authority of the entire Constitution into question.

I will say that again.

If we were to constitutionalize the mandate that outlays shall not exceed receipts—that is what the amendment says. It does not say "may not," the amendment mandates that outlays shall not exceed receipts. If we were to constitutionalize the mandate, any attempt to deviate from that requirement would bring the moral authority of the entire Constitution into question.

If we could violate this amendment with impunity, then what other provisions of the Constitution might be put in peril? Finally, this paragraph is really a wonder drug paragraph; it will fit any prescription for a balanced budget. Amazing new, wonder drug, this section 6. Do not vote for it. If you follow me, Senators, and listen carefully, you can see that this will not work.

Finally, the last sentence in this paragraph states:

> If an excess of outlays over receipts were to occur, Congress can require that any shortfall must be made up during the following fiscal year.

There you have it. What a prescription for a balanced budget. That is a massive loophole. Let me read it again.

> If an excess of outlays over receipts were to occur, Congress can require that any shortfall must be made up during the following fiscal year.

That is a loophole that, if adopted by the Congress as part of its implementing legislation, would be big enough for Attila, the king of the Huns, and his hordes of horsemen from Central Asia to sweep through.

What the sponsors of the amendment are telling us is that, if Congress cannot figure out what to do, if Congress runs into options too difficult to swallow, Congress can just require that the shortfall be made up the next year. Just put it off until the next year.

Mr. President, what kind of fiscal shenanigan is this? Just put it over until next year.

Let me emphasize again: These suggestions for dealing with the deficit under a balanced budget amendment come from the committee's report. Every Senator, every Senator's office should get that report, the Judiciary Committee's report on Senate Joint Resolution 41. Read it. As such, these suggestions in the committee report would not become part of the underlying resolution if it were to pass. They are not going to be incorporated into the constitutional amendment. They would not have any force of law. But, nevertheless, they give the American people some idea of the kinds of gimmicks and evasions the people can expect to see if this constitutional amendment is adopted by the Congress and ratified by three-fourths of the states.

The American people are being sold a bag of budget tricks. Is this what the American people want? Are they being told about the realities of what it would take to balance the budget each and every year?

As I listen to those who speak in favor of a balanced budget amendment, I do not hear them telling the public that we really intend just to roll the deficit over into the following year. I do not hear them telling the public that the Congress will just state that the deficit is "negligible," and so we do not have to deal with it. I do not hear them telling the public that, if this measure is passed and ratified, the implementing legislation will only require that the budget be balanced on paper at the beginning of the year. That is not what the American people are being told.

Mr. President, if this matter were not so serious, if it were not so dangerous to the delicate separation and balance of powers that were put in place more than 200 years ago, and if it would not have such cataclysmic effects on the economic well-being of the American people, what we have seen today, with respect just to section 6 would be laughable. It would be laughable. But it is really not laughable. And the sooner the American people begin to understand that, and the sooner the Members of this body understand that, the sooner we will realize the serious policy choices that must be made if we are to put our fiscal house in order.

Mr. President, if this amendment is ever enshrined in our Constitution, it would be impossible to accomplish the task of health-care reform that so many want. And it would have been impossible to fund the crime bill that many of our fiscally conservative friends so desperately wanted.

Mr. President, how much confidence do even the authors of this amendment have, if right in the committee report, they start figuring out ways to get around this amendment? How much confidence do they have—the sponsors of the amendment—if right in the committee report they start figuring out ways to get around the amendment? No, Mr. President, this proposal is not worthy of being enshrined in our Constitution. It is little more than political catnip offered to disguise the real difficulty of getting our budgets in balance. I do not think we should perpetrate this charade upon the American people. If it were simply a political sham, which it is, if it were just a political dodge, which it is, it would be regrettable and unwise to adopt. But it is much, much worse than those things.

This proposal is dangerous. Within its murky appeal and unsound formula for budget balance lie the seeds for the further diminishment of the trust of the people in their government. The legislative branch can ill afford any more cynicism and loss of trust. And this Senator worries almost as much about the trust deficit as he does about the budget deficit.

Often Members believe that doing what seems to be the safe thing—the popular thing—will prove also to be the right thing. Political correctness is supposed to be the order of the day, I guess. I believe that endorsing this balanced budget amendment has taken on the aura of a politically correct act. It has become a litmus test of sorts—the right choice to make the political proprietary meter register 100 percent in one's favor.

But whether or not we amend the Constitution in this damaging way is far too important for us to take the temporarily easy way out. The American people must be made to understand that once they take a closer look at this amendment, it is far from what it seems. I hope that each Senator will carefully study this amendment before voting on it. I believe close and open-minded scrutiny of this proposal shreds it, reveals its many shortcomings, and unmasks its benign countenance to reveal the sinister seeds of a constitutional crisis in the making.

Surely we will not travel this road if we are fully aware of where it may lead. In the days ahead, let us be very sure of just what it is we propose to do to our country and to our Constitution before we act.

I thank the Chair and I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Iowa [Mr. GRASSLEY] is recognized.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that I may speak for 6 minutes, as if in morning business.

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

The Senator from Iowa is recognized.

AIR FORCE C-17 CONTRACTS

Mr. GRASSLEY. Mr. President, since the beginning of the year, I have spoken several times about financial mismanagement and abuse on Air Force C-17 contracts.

My thoughts on the subject have been drawn almost exclusively from reports prepared by the inspector general [IG] at the Department of Defense [DOD]

Admittedly, Mr. President, those reports focused on financial mismanagement and abuse that occurred between July 1, 1990, and December 31, 1990.

That was 3 years ago. That was a long time ago. Some say that the Air Force has cleaned up the C-17 act.

They say the Air Force has fixed the problem.

Well, that is pure baloney. There has been no let up.

Anyone having doubts about my assessment of C-17 contract mismanagement need not go far for confirmation. Just go to your nearest Armed Services Committee report.

The same old problems persist right up to the present time.

Mr. President, I would like to quote from the House Armed Services Committee Report No. 103-200, dated July 30, 1993.

I quote from page 77:

> After an extensive set of hearings, the committee learned that the C-17 remains a seriously troubled program * * * in a way that defies remedy. The contractor may be in default on the full-scale development contract and plans to seek $1.2 billion in claims against the government. And lax management by the Air Force may be signaling that the government has no intention of enforcing the contract terms or terminating the program.

Mr. President, that is a devastating assessment. It is an indictment of the C-17 program.

The Senate Armed Services Committee Report No. 103-112, dated July 27, 1993, is almost as critical of the C-17 program as its House counterpart.

This is what the Senate Armed Services Committee says about the C-17.

I quote from page 40:

> The committee is at the limit of its patience with the C-17 program, due to serious mismanagement by the Air Force and the contractor, and is approaching the point of advocating program termination.

Mr. President, we have serious criticism about the C-17 coming from both Armed Services Committees. That is reason for concern. That is a red warning flag. We need to pay attention. That criticism is based on extensive knowledge.

Mr. President, my concerns flow from two related developments.

First, C-17 aircraft delivered to date do not meet important contract specifications.

Official Air Force and DOD documents, such as the DD-250—or Material Inspection and Receiving Report—clearly indicate that C-17 aircraft delivered to date have significant contract deficiencies.

Mr. President, I am not talking about Mickey Mouse stuff, either.

The C-17 does not meet range/payload specifications or specs as they are called. The C-17 has failed to demonstrate the capability to carry cargo into a short, 3,000-foot runway.

That is not rinky dink stuff.

Mr. President, what we are talking about here are deficiencies that could undermine the primary justification for the C-17.

Second, DOD is developing an unsatisfactory solution for the problem. The plan is outlined in a memo from the new DOD acquisition czar, Mr. John M. Deutch, to the Secretary of the Air Force. It is dated May 11, 1993.

Mr. Deutch has essentially told the Air Force to revise the C-17 specs as the service sees fit.

Mr. Deutch has given the Air Force a license to steal.

The Deutch memo gives credence to the House Armed Services Committee's warning that the "Government has no intention of enforcing the terms of the contract."

The Deutch plan will help the contractor and the airplane meet the specs. The specs will be lowered.

The specs will meet the airplane rather than having the airplane meet the specs. This is one way to achieve harmony on contracts. It is also a waste of money.

We paid McDonnell Douglas top dollar to meet much more stringent specs.

More stringent specs are more expensive because they involve greater risk. They may not be feasible.

If the C-17 cannot meet the more stringent specs, then the McDonnell Douglas must either correct the problem or repay the Government a reasonable sum of money for lost performance.

Otherwise, Mr. President, the contract should be terminated for default.

But, Mr. President, we all know that is not going to happen. The contract will be modified to meet the airplane.

We are headed down that road, again.

News reports suggests that the deed is done.

The C-17's range/payload specifications have been adjusted downward on three different occasions—November 1985, March 1990, July 1991. They are about to take another nosedive.

Each time we paid for higher specs but end up with lower ones and still pay full price and more.

The practice of harmonizing contract specs to match product performance makes a mockery of defense contracting.

Mr. President, if contracts are constantly modified to meet product performance, what value do contracts have?

Mr. President, I know the Armed Services Committee is trying to grapple with the problem.

Mr. President, the Armed Services Committee is trying to impose some discipline on the C-17 program and to prevent further erosion of critical aircraft performance specifications.

Thanks to the Armed Services Committee, the fiscal year 1994 defense authorization bill includes a provision—section 124—designed to hold the line on a long list of important C-17 performance requirements.

Mr. President, Senator D'AMATO and I offered an amendment to the fiscal year 1994 Defense appropriations bill, section 8142, that would buttress the section 124 of the authorization bill.

Our amendment was adopted on October 18.

It would attempt to draw a line on contract specifications.

Mr. President, our amendment would help to ensure: First, that progress payments on fiscal year 1994 contracts are commensurate with the work performed; and second, that the work performed meets the quality standards established in those contracts.

If fiscal year 1994 C-17 aircraft are on schedule, within cost, and meet contract specifications, then the money will flow as planned. If not, then there is a problem—as there should be.

Our amendment would help to reinforce and reinvigorate section 2307 of title X, which the DOD IG says is being ignored and abused.

What is the bottom line?

I want to send a clear signal to the Air Force: Obey the law when making progress payments on C-17 contracts. And that is it.

Mr. President, I hope the Appropriations Committee will protect our amendment in conference.

If you support the C-17 program but want better management, then you should support my amendment.

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

The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I ask unanimous consent to be allowed to speak for up to 15 minutes as in morning business.

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

WELFARE TO WORK

Mr. HARKIN. Mr. President, already this year, the administration has sent

major proposals to Congress to reform education, reform health care, and reinvent Government. Soon we will also receive a bill to reform the Nation's welfare system.

This is an area in which I have long held a strong interest. I now serve on the Labor and Health Committee, under the able guidance of our distinguished chairman, Senator KENNEDY. But I am also privileged to serve as the chairman of the Senate Appropriations Subcommittee on Labor, Health, and Human Services which has direct spending authority, appropriations authority over almost all of our welfare system.

I believe it is critical that we help people move from welfare to earning a living and I have been working for months to develop a proposal to do so. I will be introducing my welfare-to-work proposal in the next few weeks before Congress recesses until next year. So I want to take a few minutes this morning to review the need for this legislation and to briefly outline it.

Let me say at the outset, unless we have welfare reform coincidental with health care reform, I do not think health care reform is really going to work, not unless we also have a parallel track of welfare reform in this country, because the two go so closely, hand in hand.

Nowhere is the need for change more apparent and necessary than in welfare programs. For example, the predecessor to Aid to Families With Dependent Children, AFDC, was created almost 60 years ago. During the 1980's the program was amended, with some of the most sweeping changes being enacted in the Family Support Act of 1988. Yet despite these thoughtful reform efforts, expenditures on AFDC have increased, as have the numbers of family and children on welfare.

Two million more children are on welfare today than in 1980, and one in five American children now lives in poverty. In Iowa, one of every seven children lives in poverty, an increase of 21.7 percent, almost twice the national increase.

We can go into the reasons for that. Obviously, our economic system over the last 20 years has not been working well for low-income Americans. Real wages, for example, of those young Americans who did not go on to college but only with a high school education, has dropped by over 20 percent in the last few years. The real wages have gone down that much. So we do have to address it on the economic side, in terms of employment, job training, et cetera.

But, again, that will not solve the problem until we really address the fact that the current welfare system is failing children, families, and taxpayers, and it must be changed. Something that is 60 years old, built upon conditions that existed many years ago, based upon a demography that existed years ago just will not work today.

Last spring, the State of Iowa, with virtually unanimous bipartisan support, passed a welfare reform program that I think can serve as a model for the rest of the country. At the core of the Family Investment Program, as it is called in the State of Iowa, is a requirement that all families on welfare must enter into a social contract with the State of Iowa. That agreement details the steps that individual families will take to move off of welfare and into work and self-sufficiency.

I chose those words carefully. It is not getting off of welfare and getting a job. That job is not just the answer. Ajob can be so low paying that the person really still is below the poverty level and still is on welfare. So the idea is to get people off of welfare into self-sufficiency, not just get a job. As I have said many times before, jobs are not the issue. Every slave had a job when you think about it. So it is not just a job. It is what kind of a job and how much will that individual earn to enable them to be self-sufficient and to take care of their families.

Under the Iowa plan the social contract will be developed with individuals. There will be an agreement and each individual agreement will establish a specific time when welfare benefits will end for that family. The Iowa Program forces families to act responsibly and provides them a hand up to do so. It requires families to take stock of their situation, to think out what needs to be done, to enter into this agreement, and take the steps that move them off of welfare and make that family self-sufficient. To facilitate this process, families will have more incentives to earn and save.

Each family investment agreement will take into consideration the unique problems that confront each family individually. In some cases, benefits will be needed for 6 months. In other situations, it may require 2 years. But, for the most difficult circumstances, a family may need 3 or 5 or 7 years. The key is not necessarily the length of time. The key is whether or not the family is making progress, acting responsibly, and keeping their end of the bargain.

This individualized approach is important because arbitrary uniform time limits called for by some do not recognize the unique circumstances of different families and may unintentionally increase the time some people spend on welfare.

An inflexible 2-year limit could well end up being a 2-year minimum welfare stay. The Iowa Program charts a course for how a family will get off of welfare and establishes periodic benchmarks for progress. This thoughtful, workable approach is more likely to succeed than a one-size-fits-all approach that fails to recognize individual differences.

I think that government is simply a contract—an agreement —between people and their elected leaders. Government has a role to play in helping people realize their dreams. But each individual is a party to that contract also.

Welfare, like any government assistance, should come with a price—and that price is responsibility. That is the heart of the Iowa plan: Responsibility on the part of the recipient and responsibility on the part of the State. The State must meet its end of the contract. It must provide the support services—the training, transportation, child care, et cetera—to enable the individual to meet his or her end of the agreement.

So it is a contract between the government and the recipient. It is giving people dignity and hope for a better future so they can hang on and hang together through the tough times. It is not the government coming down to a welfare recipient and saying, OK, in 2 years you are off. It is not coming down to an individual and saying you have to take this job. It is sitting down with an individual, looking at his or her unique circumstances, education, background, training—what are they capable of doing? How soon are they capable of doing it? What supportive services do they need in the interim to get them through this timeframe to self-sufficiency? How long is it reasonable to expect? And then to set up benchmarksalong the way so you do not just go to 10 months or 2 years or whatever the timeframe is and then say to the individual, well, you are off now. Good luck. You have benchmarks along the way so if either one side or the other is not living up to their end of the agreement, changes can be made, modifications can be made, things can be implemented to make sure that one end or the other of the contract is lived up to.

Our current welfare system has gotten away from the simple principle—that it is basically to give people dignity and hope and opportunity for the future. Instead of a contract in which both parties give something and both got something, we now have a system where too many people are giving something with nothing asked in return—and both sides lose. I firmly believe it is not that our Government asks too much of our citizens, it is that our Government asks too little. The American people are eager to help when they believe those they are helping are also helping themselves.

The Iowa welfare reform program demands responsibility and accountability from families but it is not punitive. It recognizes that welfare should provide a hand-up, not a hand-out. It says that Government will do its parts in providing the support and the guidance

and the services, if you, the recipient, do your part to move back to self-sufficiency by moving into the work force.

A recent book by Jonathan Freedman on poverty in America gave an eloquent description of what welfare programs should be. Freedman argues that social programs should not be a safety net that catches people as they fall, but should be a railing up a staircase. I have spoken for years about the misguided directions inherent in supporting this idea of a safety net that catches people when they fall out the bottom. I have argued for years that rather than a safety net we should have a ladder or ramp of opportunity which enables people to ascend.

Jonathan Freedman, in his book, said: "A railing"—this railing up a staircase—"is used to prevent falls and to guide people upward; it makes ascent safer without taking away self-reliance."

I believe that is an apt description of how the Iowa Family Investment Program works, and it is an apt description of where this Nation should be headed on welfare reform.

I worked long and hard with State and Federal officials to secure the waivers necessary to implement Iowa's innovative program. I want to thank the Secretary of Health and Human Services, Donna Shalala, for responding to this and providing Iowans the waiver necessary to experiment with this new program. We received the final approval in August. The first family investment agreements will be negotiated and signed in January of next year.

As I said earlier, I believe the Iowa plan can serve as a model for the rest of the country and, in the next few weeks, I will be introducing legislation to that effect.

Again, I want to take this opportunity, Mr. President, to give a warning to the Governor and to the legislature in Iowa. One is of one party and one is of the other, so I am not doing it in a partisan manner. But I say to both that the State of Iowa must also live up to its end of the agreement when they sign on the dotted line with welfare recipients to move them into self-sufficiency. If the State falls short and does not provide the supportive services and the training and the education, as they signed up to do in this social contract, if they do not do that, then it is not going to succeed.

So, again, Mr. President, this, I believe, is a proper way to go for welfare reform in this country. But welfare reform itself is not enough, as I said in the beginning. We must change some of the underpinnings of economics for these families. The expansion of the earned income tax credit is very important to make it work as a viable option to these people moving off welfare and into the work force. Health care reform is also essential because they simply cannot afford to lose the Medicaid coverage for themselves and their children.

Improving collection of child support is just as important, and my legislation will address that. Absent parents must be responsible and provide financial support for their children. There is a simple, clear message to be sent here: Deadbeat dads will not get away scot free. They have a responsibility, and they will fulfill that responsibility.

In 1991, the U.S. Commission on Interstate Child Support said that collection of child support fell far short of court awards. Eleven million children in the United States have been awarded a total of $15 billion in support payments, but about $5 billion, or about 30 percent of that, is not paid each year. In Iowa, over $523 million in child support is overdue, and half of that is over 5 years late.

We have made some progress in this area, but we need to do more. We must enforce court-ordered child support awards and improve the efforts to put more child support orders in place. The legislation I will shortly introduce will strengthen activities to establish paternity at the time of birth and require employers to send copies of W-4 forms to the State child support recovery agency. That agency could then match records to see if the worker owes child support.

Mr. President, in closing, let me just say that many States have passed welfare reform programs. I think it is veryimportant that Federal welfare reform legislation not interfere with the State programs. This principle recognizes the vast difference among States, and it will allow States to continue to act as laboratories for change and progress and reform.

I look forward to cooperating with the Clinton administration as we reform our welfare system. I look forward to an era where work is rewarded, where responsibility is welcomed, where Government provides that railing up the staircase and not just a welfare safety net, and where the Government meets its end of the agreement. Most of all, Mr. President, I look forward to an era when all Americans, regardless of circumstances of birth or where they may live, race, color, that all Americans can reach their dreams with dignity and not just be provided a safety net to catch them when they fall.

Mr. President, I yield the floor.

IRRESPONSIBLE CONGRESS? HERE'S TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt stood at $4,429,513,344,083.03 as of the close of business on Friday, November 5. Averaged out, every man, woman, and child in America owes a part of this massive debt, and that per capita share is $17,244.92.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, 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.

The PRESIDING OFFICER. The Senator from Minnesota [Mr. WELLSTONE] is recognized to offer an amendment.

AMENDMENT NO. 1124

Mr. WELLSTONE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 1124.

Mr. WELLSTONE. 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 appropriate place in the bill insert the following:

TITLE—

SECTION 1. SHORT TITLE.

This title may be cited as the "Child Safety Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The problem of family violence does not necessarily cease when the victimized family is legally separated, divorced, or otherwise not sharing a household. During separation and divorce, family violence often escalates, and child custody and visitation become the new forum for the continuation of abuse.

(2) Some perpetrators use the children as pawns to control the abused party after the couple is separated.

(3) Every year an estimated 1,000 to 5,000 children are killed by their parents in the United States.

(4) In 1988, the Department of Justice reported that 354,100 children were abducted by family members who violated custody agreements or decrees. Most victims were children from ages 2 to 11 years.

(5) Approximately 160,000 children are seriously injured or impaired by abuse or neglect each year.

(6) Studies by the American Humane Association indicate that reports of child abuse and neglect have increased by over 200 percent from 1976 to 1986.

(7) Approximately 90 percent of children in homes in which their mothers are abused witness the abuse.

(8) Data indicates that women and children are at elevated risk for violence during the process of and after separation.

(9) Fifty to 70 percent of men who abuse their spouses or partners also abuse their children.

(10) Up to 75 percent of all domestic assaults reported to law enforcement agencies were inflicted after the separation of the couples.

(11) In one study of spousal homicide, over half of the male defendants were separated from their victims.

(12) Seventy-three percent of battered women seeking emergency medical services do so after separation.

SEC. 03. PURPOSE.

The purpose of this Act is to authorize funding to enable supervised visitation centers to provide the following:

(1) Supervised visitation in cases where there is documented sexual, physical or emotional abuse as determined by the appropriate court.

(2) Supervised visitation in cases where there is suspected or elevated risk of sexual, physical or emotional abuse, or where there have been threats of parental abduction of the child.

(3) Supervised visitation for children who have been placed in foster homes as result of abuse.

(4) An evaluation of visitation between parents and children for child protection social services to assist such service providers in making determinations of whether the children should be returned to a previously abusive home.

(5) A safe location for custodial parents to temporarily transfer custody of their children with noncustodial parents, or to provide a protected visitation environment, where there has been a history of domestic violence or an order for protection is involved.

(6) An additional safeguard against the child witnessing abuse or a safeguard against the injury or death of a child or parent.

(7) An environment for families to have healthy interaction activities, quality time, non-violent memory building experiences during visitation to help build the parent/child relationship.

(8) Parent and child education and support groups to help parents heal and learn new skills, and to help children heal from past abuse.

SEC. 04. DEMONSTRATION GRANTS FOR SUPERVISED VISITATION CENTERS.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter referred to in this Act as the "Secretary") is authorized to award grants to and enter into contracts and cooperative agreements with public or nonprofit private entities to assist such entities in the establishment and operation of supervised visitation centers.

(b) CONSIDERATIONS.—In awarding grants, contracts and agreements under subsection (a), the Secretary shall take into account—

(1) the number of families to be served by the proposed visitation center to be established under the grant, contract or agreement;

(2) the extent to which supervised visitation centers are needed locally;

(3) the relative need of the applicant; and

(4) the capacity of the applicant to make rapid and effective use of assistance provided under the grant, contract or agreement.

(c) USE OF FUNDS.—

(1) IN GENERAL.—Amounts provided under a grant, contract or cooperative agreement awarded under this section shall be used to establish supervised visitation centers and for the purposes described in section 03. In using such amounts, grantees shall target the economically disadvantaged and those individuals, who could not otherwise afford such visitation services. Other individuals may be permitted to utilize the services provided by the center on a fee basis.

(2) COSTS.—To the extent practicable, the Secretary shall ensure that, with respect to recipients of grants, contracts or agreements under this section, the perpetrators of the family violence, abuse or neglect will be responsible for any and all costs associated with the supervised visitation undertaken at the center.

SEC. 05. DEMONSTRATION GRANT APPLICATION.

(a) IN GENERAL.—A grant, contract of cooperative agreement may not be made or entered into under this Act unless an application for such grant, contract or cooperative agreement has been submitted to and approved by the Secretary.

(b) APPROVAL.—Grants, contracts and cooperative agreements under this Act shall be awarded in accordance with such regulations as the Secretary may promulgate. At a minimum, to be approved by the Secretary under this section an application shall—

(1) demonstrate that the applicant has recognized expertise in the area of family violence and a record of high quality service to victims of family violence; and

(2) be submitted from an entity located in a State where State law requires the courts to consider evidence of violence in custody decisions.

SEC. 06. EVALUATION OF DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Not later than 30 days after the end of each fiscal year, a recipient of a grant, contract or cooperative agreement under this Act shall prepare and submit to the Secretary a report that contains information concerning—

(1) the number of families served per year;

(2) the number of families served per year categorized by—

(A) families who require that supervised visitation because of child abuse only;

(B) families who require supervised visitation because of a combination of child abuse and domestic violence; and

(C) families who require supervised visitation because of domestic violence only;

(3) the number of visits per family in the report year categorized by—

(A) supervised visitation required by the courts;

(B) supervised visitation based on suspected or elevated risk of sexual, physical, or emotional abuse, or threats of parental abduction of the child that is not court mandated;

(C) supervised visitation that is part of a foster care arrangement; and

(D) supervised visitation because of an order of protection;

(4) the number of supervised visitation arrangements terminated because of violations of visitation terms, including violence;

(5) the number of protective temporary transfers of custody during the report year;

(6) the number of parental abduction cases in a judicial district using supervised visitation services, both as identified in criminal prosecution and custody violations;

(7) the number of safety and security problems that occur during the report year;

(8) the number of families who are turned away because the center cannot accommodate the demand for services;

(9) the process by which children or abused partners will be protected during visitations, temporary custody transfers and other activities for which the supervised visitation centers are created; and

(10) any other information determined appropriate in regulations promulgated by the Secretary.

(b) EVALUATION.—In addition to submitting the reports required under subsection (a), an entity receiving a grant, contract or cooperative agreement under this Act shall have a collateral agreement with the court, the child protection social services division of the State, and local domestic violence agencies or State and local domestic violence coalitions to evaluate the supervised visitation center operated under the grant, contract or agreement. The entities conducting such evaluations shall submit a narrative evaluation of the center to both the center and the grantee.

(c) DEMONSTRATION OF NEED.—The recipient of a grant, contract or cooperative agreement under this Act shall demonstrate, during the first 3 years of the project operated under the grant, contract or agreement, the need for continued funding.

SEC. 07. SPECIAL GRANTS TO STUDY THE EFFECT OF SUPERVISED VISITATION ON SEXUALLY ABUSED OR SEVERELY PHYSICALLY ABUSED CHILDREN.

(a) AUTHORIZATION.—The Secretary is authorized to award special grants to public or nonprofit private entities to assist such entities in collecting clinical data for supervised visitation centers established under this Act to determine—

(1) the extent to which supervised visitation should be allowed between children who are sexually abused or severely physically abused by a parent, where the visitation is not predicated on the abusive parent having successively completed a specialized course of therapy for such abusers;

(2) the effect of supervised visitation on child victims of sexual abuse of severe physical abuse when the abusive parent exercising visitation has not completed specialized therapy and does not use the visitation to alleviate the child victim's guilt, fear, or confusion;

(3) the relationship between the type of abuse or neglect experienced by the child and the use of supervised visitation centers by the maltreating parent; and

(4) in cases of spouse or partner abuse only, the extent to which supervised visitation should be predicated on participation by the abusive spouse in a specialized treatment program.

(b) APPLICATION.—To be eligible to receive a grant under this section an entity shall prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary may require, including documentary evidence to demonstrate that the entity possesses a high level of clinical expertise and experience in child abuse treatment and prevention as they relate to visitation. The level of clinical expertise and experience required will be determined by the Secretary.

(c) REPORT.—Not later than 1 year after the date on which a grant is received under this section, and each year thereafter for the duration of the grant, the grantee shall prepare and submit to the Secretary a report containing the clinical data collected under such grant.

SEC. 08. REPORTING.

Not later than 18 months after the date of enactment of this Act, and annually thereafter, the Secretary shall prepare and sub it to the appropriate committees of Congress a report containing the information collected under the reports received under sections 06 and 07, including recommendations made by the Secretary concerning whether or not the supervised visitation center demonstration and clinical data programs should be authorized.

SEC. 09. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—For the purpose of awarding grants, contracts and cooperative agreements under this Act, there are authorized to be appropriated $15,000,000 for fiscal year 1994, $20,000,000 for fiscal year 1995, and $25,000,000 for fiscal year 1996.

(b) DISTRIBUTION.—Of the amounts appropriated under subsection (a) for each fiscal year—

(1) not less than 80 percent shall be used to award grants, contracts, or cooperative agreements under section 05; and

(2) not more than 20 percent shall be used to award grants under section 07.

(c) DISBURSEMENT.—Amounts appropriated under this section shall be disbursed as categorical grants through the 10 regional offices of the Department of Health and Human Services.

The PRESIDING OFFICER. Under the previous order, there is 40 minutes for consideration of this amendment, the 40 minutes being equally divided. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, this amendment authorizes funds—a very small amount of funds—starting at $15 million per year, altogether $60 million out of this fund, to create supervised visitation centers for families that have a history of violence.

These supervised visitation centers would, first of all, provide supervised visitations with families where there has been documented sexual, physical, or emotional abuse. When we talk about crime and violence, one of the problems is that all too often there is a history of abuse by a parent, but yet during visitation rights, quite often the child is then in jeopardy again. With these safe child visitation centers, there would be supervision so that violence does not happen.

Second of all, these supervised child visitation centers would provide supervised visitation for families where there is suspected or elevated risk of sexual, physical, or emotional abuse or where there have been threats of parental abduction of a child. It is really startling, but in any given year, we have several hundred thousand examples of where, during visitation, a child is abducted. If a court has reason to believe that would happen, again, at these child visitation centers, you have supervised visitation so that it cannot happen.

Third of all, these child visitation centers provide a safe and neutral place for parents to visit with children who have been put in foster care because of abuse or neglect.

I cannot emphasize enough the importance of this. Even when a child has been abused by his or her parent or parents, that child still loves the parents. So what you want to do is rebuild the relationship. The way in which you can do that, however, has to be with clear supervision; again, protecting the child against violence, against a crime. In many ways, what this is is both intervention and prevention at the same time.

Finally, these child visitation centers serve as an additional safeguard so that parents can have an exchange of the child without there being any violence. This is very important. All too often what happens is when one spouse has visitation rights and there is a history of domestic abuse or family violence, at the point at which that spouse comes to the home, that violence takes place again. Seventy-five percent of the family violence in our country takes place after separation and divorce.

I cannot emphasize enough, Mr. President, how important these supervised visitation centers are in preventing that violence from happening. This way you can have visitation and the exchange of the child through this supervised center without any of that violence taking place at the home.

Finally, the importance of these supervised visitation centers is they serve as an additional safeguard against children witnessing the abuse of a parent or sustaining injury themselves. In 90 percent of the cases of family violence, Mr. President, a child witnesses that and, if we want to break that cycle of violence, there is no more important step that we can take than, on a small scale, to begin to support these safe visitation centers for children and for women.

Mr. President, I wish to quote from testimony from my wife, Sheila, before the Subcommittee on Children, Families, Drug and Alcoholism, October 2, 1993:

> Before I came to Washington, while I was a librarian in Northfield, I was responsible for cataloging all incoming documents, books, fliers, newsletters, et cetera. I began to come across many accounts of terrible things happening to women and children in their homes: Beatings, killings, threats from husbands, boyfriends. It struck me how amazing and tragic that what is supposed to be the safest place, our homes, can be the most violent, the most dangerous and the most deadly.

We have worked together on this issue, Mr. President, and we have traveled in Minnesota and talked to people from all around the country—judges, lawyers, doctors, women, police officers, groups of councilmen, groups of councilwomen—and all of them have told us that the solution of setting up these safe visitation centers is one of the most important steps we can take if we are concerned about violence and crime aimed at both women and children. These centers offer solutions.

A. They provide a place for parents to have court-ordered, supervised visits with their children.

B. They provide a place for parents who have custody of their children to transfer the children to the noncustodial parent in a way that prevents violence or abusive encounters.

I wish to repeat that. They provide a place where separated parents can exchange and visit their children without fear of any violent confrontation. This is a logical and effective way to begin to break the cycle of violence. It also is a way that families can begin to build positive relationships.

Mr. President, this amendment, if adopted by the Senate—and I believe it will have the support of my colleagues—addresses violence at the home, it addresses violence and crime against women and children and, most important of all, it is a first step toward ending violence in the streets.

We have two of these centers in Minnesota. There have been efforts to establish some of these centers around the country. When you talk to people, a broad cross section—clergy, law enforcement, women, children, community groups—they all say it is a marriage of public policy.

No. 1, it tries to support families that are struggling.

No. 2, it protects children against the violence and it protects children against crime, and

No. 3, it is supportive of women. It is effective. It is simple, and it works.

Mr. President, I wish to be very clear. One of the reasons I think all of us on the subcommittee feel so strongly about it—Senator DODD is an original cosponsor.

I would ask unanimous consent that Senator DODD and Senator INOUYE's names be included as cosponsors of this amendment.

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

Mr. WELLSTONE. I know it also has very strong support of Senator BIDEN.

We had testimony in our committee by Joanie Colsrud, whom I wish to quote:

> In 1985 and 1986, my ex-husband told numerous people that he was going to shoot us. He said the kids would be better off dead than with me. He even told his girlfriend. I told the sheriff of these threats, but he told me there was nothing he could do because it was only hearsay.
>
> On January 2, 1987, my ex-husband came to pick up the children for his visitation with a loaded shotgun. He shot Chad, age 6, in the left shoulder, neck and face area. He shot Nicole and missed her, thank God. He shot me in the right leg and as a result of the shooting my leg had to be removed from above the knee.
>
> My whole reason for telling you about all this is because I firmly believe that if we had a children's visitation center available to us, none of this would have had an opportunity to take place.

And then she goes on to explain. Her husband could have come and the visitation could have taken place under supervision. She could have come in, the children would havebeen at the center, she would have left, and the husband would have come in. There would have been no encounter, would have been protection for her, would have been protection for her children.

What I am trying to do is take a credible, workable program and say that this clearly can be part of the way

in which we communicate in a message from Senators that we support families and support children and support women.

People in the court system in Minnesota tell us, we wish we had so many more of these visitation centers because we know so much of the violence takes place during visitation, but we have no way of dealing with it, because we know the children are also in jeopardy, because we know the children can see that violence, and we know what a horrible effect it has on children.

Mr. President, I think I have spoken enough at the beginning, and I wish to reserve the remainder of my time. I believe there will be broad support in the Senate for this amendment. I think it is an example of a program which can make a huge difference. I urge my colleagues, as a vote for community, as a vote against violence, as a vote against crime—and that is exactly what we are talking about—to support this amendment.

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

The PRESIDING OFFICER. Who yields time?

Mr. WELLSTONE. Mr. President, I would suggest the absence of a quorum and ask that the time be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The absence of a quorum has been suggested. The clerk will call the roll. The time will run equally to both sides during the pendency of the quorum call.

The legislative clerk proceeded to call the roll.

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

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

Mr. WELLSTONE. Mr. President, I want to add for a moment to what I said.

I am informed by my wife, Sheila, that actually, while we had representatives from two visitation centers who testified before our committee, that Senator DODD chairs, we actually now have about 20 of these centers that are strung out in Minnesota. Frankly, we hear from people from all over the country. Again, it is broad based—law enforcement, clergy, union people.

I want to make it crystal clear also that it is gender neutral in protecting family members from violence and crime.

Actually, I gave short shrift to the number of models that are developing in my own State, and the potential of this around the country.

So I did want to just clarify those remarks, and try to emphasize one more time the importance of the broad base of support.

I think if I were going to emphasize any one part of the community, Mr. President, it would be the law enforcement part which really believes, whether it be the police or the judges, that these safe child, safe visitation centers are so important both for intervention and prevention of violence and crime, both for children, women and men as well.

This is really a community-based program. It is all about what we in the Senate say we are for and say that we want to encourage.

Again, I really hope that this will have broad support.

Mr. President, I again suggest the absence of a quorum. I ask that the time be charged to both sides.

The PRESIDING OFFICER. The time will be equally charged against both sides, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Who yields time?

Mr. WELLSTONE. I yield time to the Senator.

The PRESIDING OFFICER. The Senator from Delaware is yielding time?

Mr. BIDEN. I am not sure.

Parliamentary inquiry: Who controls the time?

The PRESIDING OFFICER. The manager, assuming that he is in opposition to the amendment offered by the Senator from Minnesota, the Senator from Minnesota is controlling the time in favor of the amendment.

Mr. BIDEN. I ask the Senator to yield to me 3 minutes.

Mr. WELLSTONE. I yield such time as the Senator from Delaware needs. He is not rising to oppose the amendment but to support it.

The PRESIDING OFFICER. The Senator is advised that he controls 2 minutes and 12 seconds.

Mr. BIDEN. Mr. President, it will not take much more time than that.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I support the Wellstone amendment —I support it strongly—which provides grants for supervised visitation centers for parents who are separated from their children, and where there has been past abuse.

During the difficult period of separation and divorce, family violence often escalates. Every year 1,000 to 5,000 children are killed by their parents in this Nation. And about 160,000 children are seriously injured by or abused or neglected each year. These things get worse after separation. Up to 75 percent of all domestic assaults reported to law enforcement agencies are inflicted after the couple separates.

Senator WELLSTONE's amendment will provide a safe place for parents and children to meet during these difficult times. It will help fund supervised visitation centers in cases where this is documented abuse, and where there have been threats of abduction, and where children have been placed in foster homes.

This proposal will help stop the cycle of violence that terrorized some of our Nation's children. It is important for children to have the support of both parents.

This amendment will allow such conflicts to take place in a safe setting, and it provides an opportunity for both parents to remain involved in their children's lives. It will help provide a safe, secure environment for families so they can start healing their wounds, and putting their lives back together.

I commend the Senator who has been the most eloquent and effective champion on behalf of our Nation's children. And I urge my colleagues to adopt this amendment.

I thank the Senator.

Mr. President, I suggest the absence of a quorum, and I ask that the time be equally charged.

The PRESIDING OFFICER. The clerk will call the roll, and the time will be equally charged.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HATCH. Mr. President, we have been negotiating. As I understand it, both sides are willing to accept this amendment.

So we can vitiate the rollcall vote and accept the amendment, with the understanding that Senator SMITH's amendment will be up next and that there will be no amendments to the Smith amendment.

Mr. BIDEN. Mr. President, if the Senator will withhold on vitiating——

The PRESIDING OFFICER. The Chair informs the Senator that the yeas and nays have not been ordered on the amendment.

Mr. HATCH. I thought they had.

The PRESIDING OFFICER. All time has expired.

Mr. HATCH. We accept the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1124) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. WELLSTONE. Mr. President, I wish to be recognized for 30 seconds to thank my colleagues.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. First of all, I thank both Senators, the Senator from Delaware and the Senator from Utah, for their support. I have really appreciated the discussion and negotiation. I thank them very much.

I thank my wife, Sheila, for her support.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, may I say one thing on that?

Mr. BIDEN. Sure.

Mr. HATCH. Mr. President, I commend the Senator from Minnesota, and, in particular, his willingness to cut back on the total authorization amount in the amendment has been very helpful in getting an acceptance.

The amendment does have a great deal of merit, and I think all of us recognize that.

So we are pleased we have been able to resolve this without the necessity of a rollcall vote.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, we have seen an interesting and, I think, very positive development in that the husbands and wives of sitting Senators and Congresspersons—and, I might point out the obvious, the President—have increasingly played constructive roles in positive changes in the law and attitudes in this country.

Prior to the mentioning of it by the Senator from Wisconsin, I planned on mentioning it.

Mr. WELLSTONE. Minnesota.

Mr. BIDEN. Minnesota. I compliment the Senator from Minnesota. The reason I said Wisconsin is that I have been dealing with the Senator from Wisconsin [Mr. KOHL] on an amendment he has regarding children and guns. I do apologize. I compliment the Senator from Minnesota [Mr. WELLSTONE]. I have had the opportunity not only to work with the Senator—and I am not being solicitous when I say this—but also the opportunity to work with his wife Sheila. She has done more than most people who serve in the U.S. Congress, particularly in her State of Minnesota, but now beyond the State of Minnesota, in trying to resolve these conflicts that result in horrible physical abuse, in many cases resulting in death of spouses and children as a consequence of so-called domestic violence.

I, on the record, on the floor of the Senate, compliment her for her work on this amendment, the Wellstone amendment. I do not think my friend from Minnesota would be offended if I said the Wellstone amendment, because she has done a phenomenal job and has been a real help to not only the people of Minnesota, as I observed it, but in helping me, as the chairman of the Judiciary Committee, substantively formulate some of this legislation. I cannot believe she did not play a part in helping the Senator from Minnesota formulate his amendment.

Mr. WELLSTONE. I thank the Senator from Delaware for his very gracious remarks.

Mr. BIDEN. I am not being gracious. I am just being totally truthful. I know the Presiding Officer in the chair knows of whom I speak, and she is a very committed person in this fight.

Mr. President, I say, for the benefit of my colleagues who are on the floor, as well as those who are in committee hearings and have their staffs watching these proceedings, the Senator from Utah and I, the managers of the bill, are attempting, as we have now dealt with some of the major pieces of this legislation—it is not to mislead anybody. There are a number of potential, outstanding amendments. As a matter of fact, we have a list of roughly 250 potential amendments to the crime bill. My guess is and the guess of the Senator from Utah is somewhere in the order of 200 of these will go away when they realize what they are proposing has already been passed in the bill thus far.

And there is probably the ability to agree on and accept, without a vote by unanimous consent, anywhere from another 20 to 40 amendments that are very positive amendments.

So, what we have mutual staffs doing is trying to get some sense of those outstanding amendments and determine which ones we can agree on so that, at some point in the package, we can present a number of those amendments.

The second thing we are attempting to do is, we believe that it is important, to the extent that we can without being overly rigorous about it, to take turns—a Republican amendment, a Democrat amendment, a Republican amendment—on those that appear as though they will require a vote.

At the outset, we thought the Wellstone amendment was going to require a vote, but, through the good offices and hard work of the Senator from Utah, he was able to accept the amendment.

So I invite my colleagues who have amendments that they think will require a vote to contact Cathy Russell of my staff, who is here on the floor, and Republicans to contact Senator HATCH's staff to see if we can get some order so we do not waste a lot of Senators' time being on the floor here waiting to get in line.

Then the Senator from Utah and I have a package of amendments that relate to major pieces of the bill, everything from rural crime to drug courts to FBI and so on. We are very close to working out an agreement on some of these major pieces. When we do and if we do—and I expect we will—we would probably—and I look to my colleague to confirm this, if I am not mistaken—we would move to those items first.

Then we have some very contentious amendments that I do not believe there is any possibility of, A, either getting a time agreement on or, B, getting an agreement to accept them. They, almost in every instance, relate to guns, either changes, proposed changes in minimum mandatory penalties relating to guns, including the death penalty, or those amendments relating to limiting access to the ability to purchase and own a gun.

Those amendments, as we know from vast experience here on the floor of the U.S. Senate, always generate a great deal of debate and a great deal of interest because they are important.

So, it is our hope that we will proceed in the following general way, without being slavish about trying to stick to this: First, we are going to try to line up amendments that we believe would require a vote on which we could get a time agreement. A case in point: The Senator from New Hampshire [Mr. SMITH] is on his way to the floor. He has an amendment that we believe we can—we will not attempt to get the UC until he is here—we can agree to an hour's time, equally divided, no second-degree amendments being in order.

So I urge those who have amendments that we can get a time agreement on to come forward so that we can order those amendments.

It would be my hope that we would withhold at least until the early afternoon moving to those amendments that are going—how can I say this?—to maybe be the firing shot on mayhem on the floor in terms of a debate. I would like to get as much done as we can before we get to those amendments that are not likely to be able to be resolved either by agreement and/or by time agreements that will take a lot of time.

That is how the Senator from Delaware, at least, would propose that we proceed.

I see my friend from Pennsylvania seeking recognition. I will be happy to yield for a question. I do not want to yield the floor in the event my friend may have an amendment that does not fall into one of those categories at this point.

Does the Senator have a question?

Mr. SPECTER. I do have a question.

Will the Senator from Delaware yield for the introduction of an amendment that has been agreed to, the so-called lottery amendment which the Senator wanted to handle last Friday.

Mr. BIDEN. I would be delighted to. I believe we have reached agreement on both sides on this amendment.

I would be delighted to yield to my friend from Pennsylvania for that purpose.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 1113

(Purpose: To amend section 1301 of title 18, United States Code, to make unlawful the transmission in interstate or foreign commerce of information to be used for the purpose of procuring an interest in a lottery ticket)

Mr. SPECTER. Mr. President, I call up amendment No. 1113 on behalf of myself and Senator WOFFORD.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for himself and Mr. WOFFORD, proposes an amendment numbered 1113.

Mr. SPECTER. 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 end of subtitle G of title XXIX, add the following:

SEC. 2972. INTERSTATE WAGERING.

Section 1301 of title 18, United States Code, is amended by inserting "or, being engaged in the business of procuring for a person in 1 State such a ticket, chance, share, or interest in a lottery, gift, enterprise, or similar scheme conducted by another State (unless that business is permitted under an agreement between the States in question or appropriate authorities of those States), knowingly transmits in interstate or foreign commerce information to be used for the purpose of procuring such a ticket, chance, share, or interest;" after "scheme;".

Mr. SPECTER. Mr. President, this amendment would prohibit transactions in which interests in out-of-State lottery tickets are purchased by a person in the purchaser's home State, which means that under this amendment someone in Pennsylvania could not buy an interest in an out-of-State lottery ticket which is transmitted by electronic means.

The amendment would close a loophole which has undermined the Pennsylvania lottery and its providing of funds for senior citizens.

The situation arose in July of this year, Mr. President, when a Federal court in Harrisburg struck down a Pennsylvania law which prohibited the sale of an interest in out-of-State lottery tickets—that is non-Pennsylvania tickets—which were sold in Pennsylvania. That means that somebody in Pennsylvania could buy an interest, hypothetically, in a lottery ticket in California.

A Federal judge found that the Federal law did not prohibit the sale of an interest in out-of-State lottery tickets, based really on a technicality. Although current law does prohibit the interstate transportation of the lottery ticket and would appear on its face to restrict all sales of lottery tickets across State lines, the development of communication technology resulted in this loophole in the Federal lottery law. Transactions of the sale and interest in out-of-State lottery tickets by persons via computer communications, where no paper crosses State lines, are legal under this strict interpretation of the law.

Pennsylvania's interests in promoting its lottery have been infringed and State officials in Pennsylvania believe that the State must have the exclusive right to sell lottery ticketswithin its own borders.

The issue of a lottery is highly controversial, Mr. President. Candidly, I have always had substantial reservations about it, but that has been the law of Pennsylvania for more than 20 years. The Pennsylvania lottery proceeds, under the laws of my State, have been dedicated for very worthwhile programs to benefit senior citizens, although, as I say, there has always been a question in my mind as to the desirability of taking the funds from gamblers.

The issue of senior citizens was put into sharp focus by a letter from Mr. Harvey Portner, chairperson of the Pennsylvania Council on Aging, dated October 18, 1993, which reads as follows:

DEAR SENATOR SPECTER: As you know, Pennsylvania is the only state in the country in which our lottery dollars are one-hundred percent dedicated to the needs of older people. Only 16 percent of the Department of Aging's budget is federal.

Lottery supported programs of the Pharmaceutical Assistance Contract for the Elderly (PACE), Shared Ride transportation, Property Tax and Rent Rebates, senior centers, and the OPTIONS program which enables older people to live in their homes rather than in nursing homes—are all funded by the lottery. Over one million people every year benefit from some service offered by our Commonwealth.

Mr. President, that is the essential statement of the purpose by the senior citizens. I ask unanimous consent that the full text of this letter be printed in the RECORD.

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

PENNSYLVANIA COUNCIL ON AGING,
Harrisburg, PA, October 18, 1993.

Hon. ARLEN SPECTER,
Member, U.S. Senate, Hart Office Building, Washington, DC.

DEAR SENATOR SPECTER: As you know, Pennsylvania is the only state in the country in which our lottery dollars are one-hundred percent dedicated to the needs of older people. Only 16 percent of the Department of Aging's budget is federal.

Lottery supported programs of the Pharmaceutical Assistance Contract for the Elderly (PACE), Shared Ride transportation, Property Tax and Rent Rebates, senior centers, and the OPTIONS program which enables older people to live in their homes rather than in nursing homes—are all funded by the lottery. Over one million people every year benefit from some service offered by our Commonwealth.

For these reasons, the PA Council on Aging is gravely concerned over a court decision in Pennsylvania that over turned a recently passed state law (Oct. 8, 1993) that would have banned out-of-state lottery sales. These types of sales have a direct and negative impact on Pennsylvania lottery sales. The final result will be revenue losses for programs that assist very vulnerable older citizens of Pennsylvania.

We understand that you are exploring Congressional action that could prevent the out-of-state ticket sales in Pennsylvania. We urge your immediate and full support of such a legislative remedy.

Thank you for your consideration on this very important matter.

Sincerely,

HARVEY PORTNER,
Chairperson.

Mr. SPECTER. Mr. President, current law prohibiting interstate transfer of lottery tickets is designed to protect the sovereignty of State lottery programs. However, due to advances in communication technologies, current law does not accomplish its intended goals. This amendment is designed to uphold the intent of that law by preserving a State's right to sell its own lottery tickets within its borders and exclude the sale of other States' tickets.

A recent Federal court decision struck down a Pennsylvania law to prohibit the sale of an interest in out-of-State lottery tickets in Pennsylvania. This decision was based on a strict interpretation of the law which, I believe, is in urgent need of updating. Current law does prohibit the interstate transportation "of any paper, certificate, or instrument purporting to be or to represent a ticket, chance, share, or interest in * * * a lottery." Although this provision of law would appear to restrict the interstate sale of a lottery ticket or any interest in a lottery ticket, the subsequent development of communication technology has resulted in a loophole that allows for the circumvention of the law.

The transactions of concern to Pennsylvania are the sale of interests in out-of-State lottery tickets via computer transaction with no paper crossing State lines. The judicial interpretation of the law concluded that transactions of this nature are allowed under a strict interpretation of the law.

It is my belief that current Federal gambling laws clearly intend to prohibit this type of activity. Therefore, today I am offering this amendment to prohibit the engagement of business transactions in which interests in out-of-State lottery tickets are purchased for a person in the purchaser's home State.

The situation in Pennsylvania is not unique. Other States which have lottery programs are concerned that the sale of out-of-State lottery tickets will undermine their ability to realize projected revenues for valued State programs. State lottery programs are based on the premise that the revenues derived from the lottery go toward State programs for the betterment of that particular State. Any erosion of revenues due to the sale of out-of-State

lottery tickets is contrary to the purpose of State lottery programs.

Further, the right of a State to regulate lottery and gambling within its borders must be preserved. Federal gambling laws have traditionally enabled States to regulate in-State gambling. Federal laws should continue to limit the proliferation of interstate gambling to preserve the sovereignty of States that do not permit certain forms of gambling.

Mr. President, a State's right to conduct State lotteries and regulate gambling within its own borders must be preserved. Accordingly, I urge my colleagues to support the amendment.

Mr. WOFFORD. Mr. President, I am pleased to offer this amendment with the senior Senator from Pennsylvania. This amendment is needed to update the existing Federal criminal statutes to reflect modern advancements in telecommunication and computer technology that have overtaken existing prohibitions.

States have historically had the authority to establish, operate, and regulate lotteries within their borders. But new technologies are undermining that historic right. Pennsylvania, like many other States, has worked hard over the past 21 years to maintain the integrity of its lottery. As a result, our lottery receipts have grossed $1.5 billion this year with over $800 million going toward senior citizens programs.

However, the Pennsylvania lottery is threatened today by a scheme under which out-of-State lotteries are in effect able to market and sell their lottery tickets in Pennsylvania. These schemes, which plainly violate the spirit and intent of the Federal law, are allowable because of a loophole in the current law.

The purpose of the amendment we are offering today is to close this loophole by updating the law to preserve States historic ability to regulate lotteries.

I am pleased that this amendment has been cleared on both sides. I thank and commend my colleague from Pennsylvania for his work on this issue. And I thank the Chair and ranking member of the Judiciary Committee for working with us to accept this amendment.

Mr. BIDEN. Mr. President, currently, Federal law prohibits the sale of lottery tickets across State lines. However, a loophole exists that allows the sale of a receipt, instead of a ticket, for a lottery located in another State.

A recent Federal court case in Pennsylvania overturned a Pennsylvania law that attempted to close this loophole.

Not only is the loophole contrary to congressional intent to prohibit interstate gambling operations, but it hurts the operation of lotteries in the smaller States, like Delaware.

The Governor of Delaware, Thomas Carper, wrote to me in support of this amendment.

His letter noted that the Delaware State lottery added $29 million to the State treasury last year. These funds are a significant contribution to the State treasury.

This amendment will prevent the negative impact on lottery sales in small States the loophole entails and maintains those lotteries as important sources of revenue.

I ask unanimous consent that the text of the letter from the Governor of the State of Delaware, Gov. Tom Carper, supporting this amendment be printed in the RECORD.

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

STATE OF DELAWARE,
OFFICE OF THE GOVERNOR,
Dover, DE, October 29, 1993.

Hon. JOSEPH R. BIDEN,
Russell Senate Office Building, Washington, DC.

DEAR JOE: I would like to take this opportunity to bring to your attention an amendment which may be offered to the crime package by Senators Wofford and Specter prohibiting the sale of out-of-state lottery tickets, and to make you aware of its beneficial impact on Delaware's state lottery.

As you are aware, current federal gambling law prohibits the transportation of state lottery tickets across state lines. While this statute was intended to prevent sales of out-of-state lottery tickets, a small company in New Jersey, Pic-A-State with over 160 offices in Pennsylvania, has circumvented federal law by selling receipts, instead of tickets, for large state lotteries outside of Pennsylvania. This issue has been the subject of a several year dispute between Pic-A-State and Pennsylvania state officials, who believe it has adversely affected state lottery revenues.

In July, the U.S. District Court in Pennsylvania struck down Pennsylvania's law which bans the sale of out-of-state lottery tickets. The Wofford/Specter amendment would in effect overturn this decision by amending federal interstate gambling law to prohibit the sale of out-of-state lottery tickets. As the court's decision has the potential to negatively affect state revenues from lottery ticket sales, especially for smaller states, this amendment is supported by the National Association of State and Provincial Lotteries.

Should Pic-A-State and other companies which may form as a result of the recent U.S. District Court decision move into Delaware, I am concerned about the potential adverse financial impact on Delaware's revenues from state lottery ticket sales. Last year, Delaware's lottery contributed $29 million to the state's general fund.

I hope that you will keep these issues in mind during your deliberations on the crime bill. Again, I appreciate the opportunity to share my thoughts with you.

Sincerely,

TOM CARPER,
Governor.

Mr. HATCH. Mr. President, I want to again compliment the distinguished Senator from Pennsylvania. It is a good amendment and, as usual, it is a very thoughtful one. The distinguished Senator from Pennsylvania knows as much about these subjects as anybody on the floor or anybody in the whole Congress. We appreciate having his advice and counsel on this and certainly we are prepared to accept the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment offered by the Senator from Pennsylvania.

The amendment (No. 1113) was agreed.

Mr. SPECTER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I am about to propose a unanimous-consent request and then, after I do that, ask by unanimous consent we yield to the Senator from New Jersey for 10 minutes on an unrelated matter.

Mr. President, I ask unanimous consent that we proceed to debate on the Smith amendment on alien terrorists with 1 hour for debate equally divided and controlled in the usual form with a vote to occur on or in relation to the Smith amendment upon the use or yielding back of time, and no other amendments be in order prior to the disposition of the Smith amendment.

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

Mr. BIDEN. Mr. President, I now ask unanimous consent that we put the Smith amendment aside without any time being charged to it for a period of 10 minutes to yield to the Senator from New Jersey on an unrelated matter.

I might say that through the generosity of the Senator from New Hampshire we are doing this because, as I told the Senator from New Jersey, what he has to speak to is very important. But I would discourage those who have speeches on unrelated matters, matters unrelated to the crime bill, from coming to the floor because it will not be my intention to yield on any matter other than that related to the crime bill so we can get amendments up, ordered, and move along. But I am delighted to yield now, and I ask unanimous consent I be permitted to yield to the Senator from New Jersey.

The PRESIDING OFFICER. Senator from New Jersey is recognized for 10 minutes.

NAFTA

Mr. BRADLEY. I thank the distinguished Senator from New Hampshire for allowing me to proceed, and I thank the distinguished chairman of the committee.

Mr. President, today, I rise to speak in favor of the North American Free-Trade Agreement, an aspect of that agreement—its job-creating potential. I do so as a result of the implementing legislation being sent to the Congress last Thursday or Friday.

The United States is in the midst of four economic transformations. These are worldwide transformations. All have had negative impacts upon jobs in this country.

We are in the middle of the period of adjusting to the end of the cold war, which has given great hope to people—peace breaking out all over. Yet the jobs in the defense sector will have dropped from 7.2 to 4.2 million by 1996.

We are in the midst of a knowledge revolution, changing the way we produce things, the services that are offered. The effect of that knowledge revolution, however, is also to reduce the number of workers needed to produce the same amount of product.

The third transformation is an explosion of world markets. In the last decade the walls of communism and protectionism and authoritarianism have folded across the world. There are 3 billion members in that market today—a billion more workers producing tradable goods. The result has been some loss of jobs because of that competition.

The fourth transformation is the debt that has increased over the last decade as a result of irresponsible fiscal policies. That also has produced job loss.

All four of these transformations have taken place—are taking place—and do produce job loss. I believe the North American Free-Trade Agreement has the potential of job creation precisely at a time where these other transformations are leading to job loss. The North American Free-Trade Agreement reduces tariffs and nontariff barriers over a 10-year period for all manufacturing goods and over a 15-year period for agricultural goods. It enshrines in Mexico the concept of the free market as opposed to autarchy. And I believe that it gets Mexico to do the things we have wanted them to do for a generation: Lower trade barriers, stabilize the currency, deregulate business, and encourage foreign investment.

This will produce jobs in the United States. In the automobile sector alone, in the first year of the North American Free-Trade Agreement the companies estimate they will sell 60,000 cars into Mexico. Last year they sold 1,000 cars. That is 60,000 cars in 1 year, into a growing market. There are 750,000 cars sold every year in Mexico. It is going to be a million soon. Mexican production facilities cannot possibly keep up with that. It will generate thousands and thousands of jobs in the United States in the automotive sector—supplying the demand in Mexico for automobiles.

In addition to that, there will be jobs created in the capital goods sector. We had, for example, 3 weeks ago, the head of Texas Instruments in the Finance Committee. We asked him, "Why do you not locate a manufacturing facility in Mexico since you have two assembly plants there? Why are you putting a big manufacturing facility in Dallas, Texas?"

He said, "Two reasons." One reason was higher productivity in Dallas than in Mexico. And the second reason was that in Mexico there was no power grid sufficient to produce semiconductors, which needs an uninterrupted power supply. Indeed, if you look at what General Electric estimates to be the demand for power grid investment in Mexico over the next decade, it is $34 billion.

Where are those turbines and those goods going to be supplied from? They are going to be supplied from the United States. They are going to be supplied from factories in the United States that are paying wages 12 to 13 percent higher than nonexport jobs.

In addition, Caterpillar has seen its sales double each year since 1988. There is a tremendous demand in Mexico for construction equipment, for tractors, for other kinds of capital investment; investment that will be made over and over again—not once, but over and over again, generating jobs in the United States.

For the first time in history, the oil and gas industry in Mexico is now open for United States investment and for United States exports. For example, it has been estimated that over the next 5 years, $20 billion will be spent in Mexico to modernize the oil and gas industry. That means $20 million that companies like Dresser Industries, or smaller companies like Solar Turbines, can compete for, thereby generating jobs in the United States.

The manufacturing sector is a winner out of the North American Free-Trade Agreement in terms of jobs generated. But, of course, our labor force is not only manufacturing. Out of 100 million people in our labor force working full time only about 17 to 18 million are in manufacturing. In Mexico only 23 percent of the Mexican gross national product is manufacturing, but 60 percent of the Mexican gross national product isservices. The services market for U.S. companies has been virtually closed. If we do the North American Free-Trade Agreement, that will be opened up.

What kind of services am I talking about? Communications, transportation, banking, insurance, publishing, beach front tourism, film distribution, retraining, education training, civil engineering, computer software design, and natural gas and electric power generating facilities.

So in terms of the service industry there is an enormous opportunity for job creation. For example, because of the elimination of equity limits and establishment of a good patents and copyright law, Government procurement open to American goods, some investment guarantees, you are going to see a dramatic explosion of everything from the sale of films in Mexico, drugs in Mexico, candy in Mexico—insurance is growing at 20 percent a year in Mexico. It is at 3 percent here. It will be a big market for insurance.

One finance company in my State says they will open 100 offices in Mexico over the next 5 years and each one of those offices will support a job in my State of New Jersey of up to $40,000 to $50,000 a job.

One pharmaceutical company says it will increase 800 to 1,000 jobs in New Jersey because of the North American Free Trade Agreement.

The fact of the matter is, in my State the North American Free-Trade Agreement is a tremendous advantage. In the last several years we have increased our exports to Mexico from New Jersey from $189 million to $483 million. There are approximately 16,000 jobs in my State directly related to export to Mexico. If the North American Free-Trade Agreement goes through, there will be an additional 2,360 jobs in New Jersey, as a result of exports to Mexico.

The reality is that the North American Free-Trade Agreement is a major job producer. Do not take my word for that, take President Clinton's word, who says it will generate 200,000 jobs over the next 4 years. Take 24 out of 25 studies that have been done of the impact of the North American Free-Trade Agreement. It will generate jobs—24 out of 25 say that, net, it will generate jobs, jobs in the manufacturing sector, as well as jobs in the service sector; jobs that would not be there otherwise; jobs that will be generated precisely at the time that the other four economic transformations that the economy is going through will cost jobs.

Mr. President, I think it is also important to understand the concept that virtually all exports generate jobs in this country. However, all imports do not subtract jobs. What do I mean by that? Let us say you are importing a product that you could not otherwise get; for example, oil. That does not lose jobs. You need the oil, you generate the jobs with the oil. Or let us say you import something, you need distribution and marketing jobs in this country. Those are jobs generated.

The reality is the North American Free-Trade Agreement will generate jobs. It is a big idea. It is an idea whose time has come, and I hope that we can focus on why it is good in terms of job creation for the manufacturing sector and for the services sector and why it will make us more competitive in international markets in the years ahead.

The PRESIDING OFFICER. The Senator's time has expired. Under the unanimous-consent agreement, the Chair recognizes the Senator from New Hampshire.

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VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1125

(Purpose: To provide special procedures for the removal of alien terrorists)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. SMITH], for himself and Mr. SIMPSON, proposes an amendment numbered 1125.

Mr. SMITH. 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 appropriate place, add the following:

"SEC. . REMOVAL OF ALIEN TERRORISTS.

The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting the following new section:

"REMOVAL OF ALIEN TERRORISTS

"SEC. 242C. (a) DEFINITIONS.—As used in this section—

"(1) the term 'alien terrorist' means any alien described in section 241(a)(4)(B);

"(2) the term 'classified information' has the same meaning as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App. IV);

"(3) the term 'national security' has the same meaning as defined in section 1(b) of the Classified Information Procedures Act (18 U.S.C. App. IV);

"(4) the term 'special court' means the court described in subsection (c) of this section; and

"(5) the term 'special removal hearing' means the hearing described in subsection (e) of this section.

"(b) APPLICATION FOR USE OF PROCEDURES.—The provisions of this section shall apply whenever the Attorney General certifies under seal to the special court that—

"(1) the Attorney General or Deputy Attorney General has approved of the proceeding under this section;

"(2) an alien terrorist is physically present in the United States; and

"(3) removal of such alien terrorist by deportation proceedings described in section 242, 242A, or 242B would pose a risk to the national security of the United States because such proceedings would disclose classified information.

"(c) SPECIAL COURT.—(1) The Chief Justice of the United States shall publicly designate up to 7 judges from up to 7 United States judicial districts to hear and decide cases arising under this section, in a manner consistent with the designation of judges described in section 103(a) of the Foreign Intelligence Surveillance Act (50 I.S.C. 1803(a)).

"(2) The Chief Justice may, in the Chief Justice's discretion, designate the same judges under this section as are designated pursuant to 50 U.S.C. 1803(a).

"(d) INVOCATION OF SPECIAL COURT PROCEDURE.—(1) When the Attorney General makes the application described in subsection (b), a single judge of the special court shall consider the application in camera and ex parte.

"(2) The judge shall invoke the procedures of subsection (e), if the judge determines that there is probable cause to believe that—

"(A) the alien who is the subject of the application has been correctly identified;

"(B) a deportation proceeding described in section 242, 242A, or 242B would pose a risk to the national security of the United States because such proceedings would disclose classified information; and

"(C) the threat posed by the alien's physical presence is immediate and invokes the risk of death or serious bodily harm.

"(e) SPECIAL REMOVAL HEARING.—(1) Except as provided in paragraph (4), the special removal hearing authorized by a showing of probable cause described in subsection (d)(2) shall be open to the public.

"(2) The alien shall have a right to be present at such hearing and to be represented by counsel. Any alien financially unable to obtain counsel shall be entitled to have counsel assigned to represent such alien. Counsel may be appointed as described in section 300A of title 18, United States Code.

"(3) The alien shall have a right to introduce evidence on his own behalf, and except as provided in paragraph (4), shall have a right to cross-examine any witness or request that the judge issue a subpoena for the presence of a named witness.

"(4) The judge shall authorize the introduction in camera and ex parte of any item of evidence for which the judge determines that public disclosure would pose a risk to the national security of the United States because it would disclose classified information.

"(5) With respect to any evidence described in paragraph (4), the judge shall cause to be delivered to the alien either—

"(A)(i) the substitution for such evidence of a statement admitting relevant facts that the specific evidence would tend to prove, or (ii) the substitution for such evidence of a summary of the specific evidence; or

"(B) if disclosure of even the substituted evidence described in subparagraph (A) would create a substantial risk of death or serious bodily harm to any person, a statement informing the alien that no such summary is possible.

"(6) If the judge determines—

"(A) that the substituted evidence described in paragraph (4)(B) will provide the alien with substantially the same ability to make his defense as would disclosure of the specific evidence, or

"(B) that disclosure of even the substituted evidence described in paragraph (5)(A) would create a substantial risk of death or serious bodily harm to any person,

then the determination of deportation (described in subsection (f)) may be made pursuant to this section.

"(f) DETERMINATION OF DEPORTATION.—(1) If the determination in subsection (e)(6)(A) has been made, the judge shall, considering the evidence on the record as a whole, require that the alien be deported if the Attorney General proves, by clear and convincing evidence, that the alien is subject to deportation because he is an alien as described in section 241(a)(4)(B).

"(2) If the determination in subsection (e)(6)(B) has been made, the judge shall, considering the evidence received (in camera and otherwise), require that the alien be deported if the Attorney General proves, by clear, convincing, and unequivocal evidence, that the alien is subject to deportation because he is an alien as described in section 241(a)(4)(B).

"(g) APPEALS.—(1) The alien may appeal a determination under subsection (f) to the court of appeals for the Federal Circuit, by filing a notice of appeal with such court within 20 days of the determination under such subsection.

"(2) The Attorney General may appeal a determination under subsection (d), (e), or (f) to the court of appeals for the Federal Circuit, by filing a notice of appeal with such court within 20 days of the determination under any one of such subsections.

"(3 When requested by the Attorney General, the entire record of the proceeding under this section shall be transmitted to the court of appeals under seal. The court of appeals shall consider such appeal in camera and ex parte."

The PRESIDING OFFICER. The Senator is recognized for 30 minutes.

Mr. SMITH. Mr. President, I am offering this amendment on behalf of myself and the Senator from Wyoming [Mr. SIMPSON] the distinguished ranking minority member and former chairman of the Subcommittee on Immigration and Refugee Affairs of the Committee on the Judiciary.

The Smith-Simpson amendment is essentially identical to section 821, the removal of alien terrorist provisions of Senate bill 1356, or otherwise known as the Republican crime bill.

As we see the end of the cold war, we see dramatically diminished the unrelenting threat of the nuclear war that plagued all Americans for so many decades, but there is another specter that still looms large, and that is the threat of the wave of terrorism that we see in the United States.

Earlier this year, that threat became reality with the bombing of the World Trade Center. Americans were horrified and outraged by the senseless murder and destruction brought by that heinous act of terrorism.

Fortunately, the Justice Department's Federal Bureau of Investigation moved with impressive speed to identify the suspects who are now being prosecuted for the World Trade Center bombing. Those suspects, of course, are aliens. They are not American citizens.

Mr. President, now that the scourge of international terrorism has come to our shores in a major way with the World Trade Center bombing, it is time to give the Department of Justice another tool to prevent future acts of terrorism. My amendment, which would establish special procedures for the removal of alien terrorists from the United States, provides that tool, a much-needed tool. My proposal is not a new one. The special procedure for the removal of alien terrorists that would be established by this amendment first was formally submitted to the Congress by the Reagan administration in 1988. It continued to be supported by the Bush administration throughout its 4-year term. Thus, it was supported by three successive Attorneys General of the United States of America.

This removal of alien terrorist proposal resulted from the careful work of a team that was comprised largely of career lawyers from throughout the Justice Department, and that team of

Justice Department lawyers aimed to solve a very real problem: International terrorism brought to the shores of the United States.

Let me describe that problem. One of the most important jobs that the FBI does is to investigate international terrorist aliens and organizations as they operate in the United States. The goal of those investigations is to detect preparations forand ultimately to prevent acts of terrorism from ever happening. It is not enough to arrest someone after it happens. What we must try to do is detect this problem before the act occurs. One of the best ways to prevent terrorism is for the FBI to identify terrorist aliens and to work with the Immigration and Naturalization Service to deport those aliens from the United States. But by virtue of the very nature of antiterrorism investigations, much of the information that the FBI gathers on a given alien terrorist is classified. That information is classified under the law in order to protect human sources of information and to safeguard the methods of intelligence gathering.

Under current law, however, Mr. President, classified information cannot be used to establish the deportability of aliens. In other words, any and all information that the Government uses to seek the deportation of an alien must be disclosed to the alien. Thus, in situations in which the Government does not have sufficient unclassified information to establish the deportability of a terrorist alien, the Government faces a catch-22 situation. It faces two untenable choices, in other words: On the one hand, the Government did declassify enough of its evidence against the terrorist to get that alien lawfully deported. But sometimes that simply cannot be done because the information is so sensitive that its disclosure to the alien would endanger the lives of human sources or compromise secret methods of intelligence gathering. That choice then is untenable. The Government simply cannot create a situation in which its human sources get themselves killed because they provided the FBI with information about terrorist aliens.

Let us look at the other choice. That is equally untenable, in my opinion. The Government can simply let the terrorist alien involved remain in the United States. It then must wait until he commits a crime before it acts. But aliens, of course, are our guests. We ought not to have to tolerate the presence in this country of aliens who are working on behalf of and to further the terrorist activities of terrorist organizations that threaten the lives and property of American citizens. Thus, letting terrorist aliens remain in this country until they commit a crime is equally untenable.

Let me illustrate what I have been saying by using an all too plausible hypothetical scenario. Let us say that the FBI identifies an alien who is a high-ranking operative of an international terrorist organization. Let us say that organization's activities pose a potent danger of the commission of terrorist acts in the United States. Let us also say that the alien in question has frequently left the United States to attend meetings with other terrorists overseas and to undergo terrorist training, only to slip back into the United States as an even worse threat to public safety, armed with more information. But let us also say that the alien involved is quite careful not to cross the line and commit a crime for which he could be prosecuted and put in jail. Believe me, we are dealing with some very sophisticated people here who have the capability of doing just that.

Let us say that the FBI determines that the alien involved is sufficiently dangerous and has abused his status as a "guest" in this country to a degree that he should be deported. But the FBI and the INS have a problem. All of the information that the Government has about the terrorist alien that we are talking about in this hypothetical is classified. And it is classified because the FBI has sources for that information whose lives would be endangered if that alien learned of the information and realized how it had been obtained. In other words, the information is so sensitive that the U.S. Government's human sources might be killed if the information were to come to the attention of the alien in question.

Under current law, the Justice Department is just plain stuck. It has done its job by discovering the activities of the terrorist alien. That alien is part of a dangerous organization. He is important to that organization, which will be hurt by his removal from the United States. The Justice Department believes strongly that national security requires the removal of that alien, but the circumstances of the case are such that the Justice Department cannot neutralize that alien by making out a criminal case against him and getting him put in jail.

At the very least, at the very least, the Justice Department believes that terrorist alien ought to be removed from the United States and be forced to return to his home country. But because that information that Justice has in its dossier about the alien is classified and cannot be used publicly under current law without risking someone being killed, Justice must let this same alien remain at large in the United States of America—remain at large.

Now, faced with this situation in real cases—no more hypotheticals, in real cases—the Justice Department carefully developed a proposal to address the problem. That proposal, developed by the Reagan Justice Department and strongly supported by the Bush Justice Department, is embodied by this amendment, the amendment that I offer, the Smith-Simpson amendment.

This amendment establishes a special procedure that permits the U.S. Government to use classified information under limited circumstances to establish the deportability of terrorist aliens. This amendment utilizes familiar definitions from existing law. It clearly defines an alien terrorist as that term is used under the Immigration Act of 1990. And under that act it basically says:

Engaged in Terrorist Activity: As used in this Act, the term "engaged in terrorist activity" means to commit in an individual capacity or as a member of an organization an act of terrorist activity or an act which the actor knows or reasonably should know affords material support to any individual, organization, or government in conducting a terrorist activity at any time including any of the following: 1. Preparation or planning of a terrorist activity; 2. The gathering of information on potential targets for terrorist activity; 3. The providing of any type of material support including a safe housing, transportation, communications, funds, false identification, weapons, explosives or training to any individual the actor knows or has reason to believe has committed or plans to commit a terrorist activity; 4. The soliciting of funds or other things of value for terrorist activity; and 5. Solicitation of any individual for membership in a terrorist organization, terrorist government, or to engage in a terrorist activity.

That is the legal term. It defines classified information as that term is used in the Classified Information Procedures Act, with which most of us are familiar.

It establishes a special court that is modeled on the special court that was created by the Foreign Intelligence Surveillance Act. Under this amendment, the special removal procedure for terrorist aliens could only be used under extraordinary circumstances. The procedure could only be invoked when the Attorney General certifies under seal to the special court: First, that the Attorney General or the Deputy Attorney General has personally approved of invoking a special procedure; second, an alien terrorist is physically present in the United States; third, the removal of that alien terrorist by the use of the normal process of public immigration proceedings would pose a risk to the national security of the United States because such proceedings would disclose classified information.

So under this amendment, once the Attorney General made those determinations, the Government's case for the removal of the terrorist alien involved would go before this special court. That special court would be made up of seven sitting U.S. district judges designated by the Chief Justice of the United States, but only one such judge would sit on each case. Thus the

Government would have the burden of proving its case for the removal of the terrorist alien before an independent, life-tenured Federal judge. It is the Government's burden to prove the case.

Mr. President, once the Government's case for the removal of the given terrorist alien is before a Federal judge, the judge must make his or her own determination about whether the invocation of the special procedure is justified.

The judge must determine that there is probable cause to: First, believe that the alien involved has been correctly identified; second, that a public deportation hearing would pose a risk to the lives of human sources or the national security of the United States because such proceedings would disclose classified information; and third, the threat posed by the alien's physical presence is immediate and involves the risk of death or serious bodily harm to American citizens.

Let me reflect for a moment, Mr. President. This amendment provides major protections against any abuse by the Government of this special procedure—major protections. First, as I have explained, the Attorney General must make certain specific determinations before the Government can seek to use the procedure. Second, the independent U.S. district judge to whom the case is assigned must make specific determinations of his or her own before the process can go any further.

Under my amendment, once the special procedure is invoked by the Attorney General's certification and is approved by the U.S. district judge, a special removal hearing is held. The alien is provided the right to be present at that hearing and to be represented by a lawyer, at public expense if necessary. The alien also is given the right to introduce evidence on his or her own behalf and to ask the judge to issue subpoenas for the presence of named witnesses.

On the Government's side, my amendment allows the Justice Department to introduce classified information for the independent Federal judge's review to establish the need for the removal from the United States of this terrorist alien. Before the judge can decide not to allow the alien to see the evidence, however, the judge must make his or her own independent determination that public disclosure of the evidence would pose a risk to the lives of human sources or the national security of the United States.

If the Federal district judge involved makes that determination, that Federal judge would then review the classified information in his or her chambers and would not permit that information to be seen or disclosed to the alien or to his counsel. So classified information is protected.

For those civil libertarians over there anxiously awaiting to take me on, there is another protection for the alien. Where possible, without compromising the classified evidence, the judge would give the alien a summary of the evidence and/or the facts established by that evidence. Under the Smith-Simpson amendment, the U.S. district judge ultimately would determine whether, considering the evidence on the record as a whole, the Justice Department has proven by clear and convincing evidence that the alien is a terrorist—a terrorist, not an alien, a terrorist—as defined by the Immigration Act of 1990 and therefore should be removed from the United States. In cases where the Federal district judge determines that the alien is a terrorist who should be removed from the United States, then the alien is given the right to appeal to the U.S. Court of Appeals for the Federal Circuit and, again, to appeal even further to the U.S. Supreme Court.

Mr. President, this Senator understands and appreciates the concerns of those who oppose changing the law to allow the use of classified information to establish the deportability of terrorist aliens.

Their fundamental concern is that under this amendment the alien is not allowed to confront his accusers and to be informed of all the specific evidence against him. They make two main points. First, they say such a procedure never could be used against a U.S. citizen; second they say it is fundamentally unfair to the alien but of course the persons who are subject to removal from the United States by this special procedure are not U.S. citizens. They are aliens. They are guests. As such they do not have the same constitutional rights as an American citizen.

With regard to the fairness, this amendment goes the extra mile to balance the legitimate rights of the alien against the national security interests of the United States. We have the right as a people to protect our Nation against this kind of terrorism. This amendment provides many layers of protection against abuse by the Government, but ultimately when push comes to shove the national security interests of the United States must outweigh the procedural rights of an alien terrorist.

Mr. President, let me review once more the specific protections that this amendment provides to aliens who are subject to this procedure.

First, this amendment requires the personal approval of the Attorney General or the Deputy Attorney General, the two top officials, personal approval before the procedure can be used.

Second, this amendment requires the independent approval of a life-tenured U.S. district judge.

Third, this amendment requires notice to the alien that the Government is seeking to deport the alien under this procedure.

Fourth, the Smith-Simpson amendment requires the district judge to allow the alien to testify and present evidence on his behalf.

Fifth, this amendment gives the alien a right to counsel, sometimes at public expense.

Sixth, this amendment entitles the alien, whenever national security allows it, to a summary of the evidence and a statement of facts established by the evidence.

Seventh, the amendment gives the alien the right to appeal to the court of appeals, and to the Supreme Court, if necessary.

In short, this amendment seeks to address a serious problem with a balanced approach, an approach that seeks to protect to the maximum extent possible both the rights of the alien involved and the vital national security interests of the United States.

Let me reiterate that this is not new. It is a proposal that was made by the Reagan administration, supported later by the Bush administration. It is a proposal that the Justice Department in those administrations believed to be fully constitutional, and it was supported by all three of the immediate predecessors of the current Attorney General of the United States.

Unfortunately, though, as Congress does its work the Senate Judiciary Committee has failed to hold hearings on this proposal after it was sent to Congress by President Reagan in 1988. It failed to hold hearings in 1989. It failed to hold hearings in 1990. It failed to hold hearings in 1991. It failed to hold hearings in 1992.

It is time to stop waiting for the committee to act, Mr. President. It is time for the full Senate to act and adopt this amendment.

Let us give the Justice Department the vital new tool to help prevent future terrorist acts like the World Trade Center bombing.

We still live in a dangerous world. I can assure you the American people support this amendment. I can assure you the American people do not want aliens walking the streets when we have information on them knowing what they are doing, and not deporting them. I can assure you the American people want them deported.

The World Trade Center bombing showed us the danger that Americans face from this threat. Let us give the Department of Justice an important new tool to protect us from these people. That is not unreasonable.

Let me close on this point, Mr. President. Many of you know that earlier this year I happened to witness a terrorist act at the CIA in which a terrorist gunman shot and killed two people, including an employee.

I think, although I had the opportunity to witness that firsthand, that many of us through the media have witnessed firsthand a great deal of

international terrorism. And we are very concerned about it—very concerned about it.

All of us as Americans saw this at the World Trade Center. That is just one example. Let us resolve to do all that we can to protect ourselves against this potent threat to our domestic security.

This is a reasonable amendment. It protects the rights of the individual terrorist even. But even more importantly, it protects the national security of the United States of America, and it also protects the citizens of the United States of America which is what we ought to be doing in all of our actions here in the U.S. Senate.

So, Mr. President, I ask for the yeas and nays at this point, and I reserve the remainder of my time.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. BIDEN. Will the Senator withhold the request for just a moment? I would like to ask a question before he does that.

Mr. SMITH. Yes.

Mr. BIDEN. Mr. President, I think we may be able to, at least I know the Senator from Illinois has some points to raise about this amendment. But I am inclined to accept the amendment. My inclination to accept the amendment goes in direct proportion of whether or not we have to take 15 minutes to vote on the amendment.

So depending on what the Senator from Illinois——

Mr. SIMON. If my colleague will yield. I favor the general idea. I think there are some things that need to be worked out. I am not opposed to it accepting it by a voice vote, with the understanding that when we move to conference we try to work something out here on some of the details.

I think it is important that we not move away from some basic protections that the Senator from New Hampshire and the Senator from Delaware and I all believe.

Mr. BIDEN. Mr. President, with this amendment, the Senator from New Hampshire makes a basic fundamental point that I think is irrefutable; that is, nothing that he is proposing rises to the level of being unconstitutional. We are not talking about a constitutional violation. Were we talking about an American citizen with this proposal, I would be up here filibustering, if need be, to stop this from passing, if I could effect it. We do not have that as an issue in this debate.

So, although I would write this slightly differently, I have no objection to accepting the amendment. And obviously, any amendment accepted and/or passed when we get to conference on an amendment, its chances of surviving the conference are enhanced by how much agreement can be reached in the conference.

So, I would suggest, if the Senator from New Hampshire is willing, that we accept his amendment. I would like to make a very few brief comments about it, and not be required to bring all of our colleagues back at 12:30 to vote on it.

It is totally up to him.

Mr. SMITH. If the chairman is willing to accept the amendment, there is no need for a recorded vote. If you get a win, you accept a win. I am more than happy to do that.

I might also say if you do have suggestions, we would be happy to discuss any suggestions the chairman might have.

Mr. BIDEN. Mr. President, since the Senator from Illinois have some points he wants to raise about it, before we——

Mr. SIMON. I do not need to take the time here to do that.

If my colleague will yield, what I would like to do is have his staff work with the Immigration Subcommittee staff to see if we cannot get something worked out in conference that we can all agree to.

Mr. BIDEN. Mr. President, I want to make it clear to the Senator from New Hampshire. I am proposing accepting the amendment notwithstanding, not conditioned upon, whether anything is worked out.

So I would accept the amendment. I just mention that working it out, having your staff sit down and talk, does enhance the prospects of when and if it comes up in conference in dispute; that it is more helpful, if the Senator from Illinois and others are also speaking for the amendment. To that extent, it is a value to work it out. But I am not conditioning acceptance on that point.

Mr. SIMPSON. Mr. President, I support this amendment which would provide the United States with a new weapon to fight international terrorism perpetrated by aliens present in our country.

I believe our Nation has few interests more compelling than combating the narrow situation that this amendment addresses. Here is that situation: Where an alien poses an immediate threat of death or serious bodily harm to either: First, a substantial number of persons; or second, an individual of political significance.

This amendment specifically excludes aliens who are merely fundraisers or membership solicitors for groups with questionable international ties.

NEED FOR PROCEDURES

Some critics contend that this amendment is not needed. That is patently untrue.

We cannot proceed against some alien terrorists in criminal trials, when our only evidence is classified, and to reveal the classified information would put a person's life in danger.

We cannot exclude alien terrorists from this country if we do not find out about their being a terrorist threat until it is too late—until after they have entered. Like the aliens who were allegedly involved in the World Trade Center bombing.

CONCERN ABOUT SECRET TRIALS

I know all of us have an aversion to secret court proceedings. I share that concern. But, this amendment would avoid such a proceeding if at all possible.

First, the amendment would require an open, public hearing in most instances. It would require the Government, when using classified information, to provide an alien with either a summary or redacted—censored—version of the classified information. If that information is not provided, the court would normally be required to dismiss the case.

However, in one instance, the court may proceed even if the alien has not received a summary of the evidence. The court may proceed in secret if disclosure of even a summary of the classified information would expose the source of that information to death or serious bodily harm.

Mr. President, if we have good information that a violent terrorist act is imminent, and if revealing the source of that information would expose that source to possible death, then I think it is proper to go forward and deport that alien terrorist as swiftly as possible.

This is admittedly a rare instance. I do not expect the Government to use this procedure very often at all. Nonetheless, where there is reliable evidence of an immediate and serious terrorist threat, we must take that threat seriously. And if it is clear that the only evidence we have against the alien is confidential and disclosure of the evidence would place the source of the information's life in danger, then I believe we should be able to proceed with the deportation of that alien.

This amendment would require a judge to find that the alien is clearly deportable and that the alien's due process rights have been respected. I believe that that is a fair and reasonable process when the Government's interest is a compelling as it is when a terrorist threat is imminent. I urge the adoption of this amendment.

REBUTTAL TO CRITICISMS ABOUT DUE PROCESS

The amendment has been criticized as violative of an alien's right to due process. This criticism is partially correct, but we must remember what the context is. Deportation is a civil proceeding. An alien does not have the same rights as does a criminal defendant. Rather, the alien has the same rights as an American citizen would have if he were challenging the termination of his disability benefits by the Social Security Administration.

The Supreme Court case that controls here is Mathews versus Eldridge, a 1976 opinion by former Justice Powell. Mathews held that whether due

process existed in a civil proceeding depended on a test which balanced the following three interests: First, the individual's interest; second, the risk of an erroneous decision by the existing procedure, and the ability to make determinations more accurate with additional procedures; and third, the Government's interest.

This amendment specifically incorporates the factors which Mathews created. The amendment would not allow an alien to be deported under the special court procedures unless the judge has determined—in addition to the alien being deportable—that the due process factors of Mathews have been satisfied.

This amendment does comply with constitutional due process requirements. If anyone criticizes this amendment on due process grounds, then they are devising a definition of due process that is beyond what the Constitution requires. Let me be perfectly clear on that point.

In addition, I should note that the Supreme Court has found that national security and the need for Government confidentiality has been found to overcome a plaintiff's right to recover damages for wrongdoing in civil tort: U.S. versus Reynolds, 1953.

Following this Supreme Court precedent, a Federal appeals court invoked national security to deny 27 individuals and organizations an opportunity to sue the Government for claimed violations of the fourth amendment: Halkins versus Helms, 1978. There should be no doubt that national security is an effective ground upon a court may properly reply to restrict a person's right to a civil proceeding.

Mr. SMITH. Mr. President, because of the statement made by the chairman, I withdraw my request for the yeas and nays.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. I would be delighted to yield as much time to my friend from Utah as he needs.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Thank you, Mr. President. We are prepared to accept this on this side as well.

I rise in strong support of the amendment by my colleague from New Hampshire. The events of the past year have graphically demonstrated the need for quick and certain procedures for the removal of aliens who would terrorize our people. In February, we witnessed the bombing of the World Trade Center in New York. And this past summer, the outstanding work of Federal law enforcement prevented a series of terrorist acts from being carried out in and around New York City.

I congratulate the agencies which apprehended the World Trade Center bombers, and which prevented the later disasters. But it is time to give our law enforcement agencies and courts the tools they need to quickly remove alien terrorists from our midst without jeopardizing national security or the lives of law enforcement personnel.

My colleague's amendment provides the Justice Department with a mechanism to do this. It allows for a special deportation hearing and in camera, ex parte review by special judges when the disclosure of information in open court of Government evidence would pose a threat to national security.

It is entirely within the power of Congress to establish special adjudicatory proceedings and to specify the procedural rights of aliens involved in terrorist acts. As the Supreme Court noted over 10 years ago, "control over matters of immigration is a sovereign prerogative, largely within the control of the Executive and the legislature." [*Landon* v. *Plasencia*, 459 U.S. 21, 34–35 (1982).] So long as the procedures established by Congress are essentially fair, they satisfy the requirement of due process.

Moreover, we have the power as well to distinguish between classes of aliens, and accord separate procedures to different classes. Congress has plenary power over immigration and naturalization. The legitimate distinction between aliens and citizens justifies and permits both separate procedures for aliens and the congressional determination that not all aliens should be treated alike. [*Mathews* v. *Diaz*, 426 U.S. 67 (1976).]

Mr. President, sound policy dictates that we take steps to ensure that we deport alien terrorists without disclosing to them and their partners our national security secrets. Our counterterrorism programs have, so far, effectively safeguarded our citizens. The success to date of our counterterrorism efforts is largely due to its effective use of classifiedinformation used to infiltrate these groups. We cannot afford to turn over these secrets in open court, jeopardizing both the future success of these programs and the lives of those who carry them out.

Some raise heartfelt concerns about the precedence of this provision. I believe their opposition is sincere, and I respect their views. Yet, these special proceedings are not criminal proceedings for which the alien will be incarcerated. Rather, the result will simply be the removal of these aliens from U.S. soil—that is all.

According to the FBI, there are numerous terrorist organizations operating within the United States. Over the past decade, the FBI has recorded at least 75 terrorist preventions here at home. Recently, the FBI arrested four individuals who were plotting to attack the Israeli Embassy. And as I noted a moment ago, there have been several terrorist attempts in New York this year. The FBI has supported legislation similar to this amendment in the past.

Americans are a fair people. Our Nation has always emphasized that its procedures be just and fair. And the procedures in the Smith amendment are in keeping with that tradition. The special court would have to determine that the alien in question is an alien terrorist, that an ordinary deportation hearing would pose a security risk, and that the threat by the alien's physical presence is grave and immediate. The alien would be provided with counsel, given all information which would not pose a risk if disclosed, and would have the right of appeal. But Mr. President, in our effort to be fair, we must not provide to terrorists, and to their supporters abroad, the informational means to wreak more havoc on our society.

Mr. President, ours is a free society. Of all of our liberties, the openness of our institutions and our freedom to travel are among our most cherished. But his freedom is not without its costs. Because we are so open, we are vulnerable to those noncitizens who would take advantage of our liberty to inflict terror on us. This amendment ensures that those noncitizens who would terrorize our citizens receive fair, but swift, deportation without disclosing sensitive information which would then be turned against us. I urge my colleagues to support it.

The PRESIDING OFFICER. If there is no further debate on the amendment offered by the Senator from New Hampshire, the question is on agreeing to the amendment.

The amendment (No. 1125) was agreed to.

Mr. SMITH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, I am not going to offer an amendment, but I would like to discuss an amendment that I did not have time to discuss on Friday, which amendment was accepted by the majority and Republican sides of the aisle. It is now part of the legislation before us.

The reason I want to discuss it is because it tries to deal with a very real problem that we have. I also want to discuss it because I want the managers

of the bill, when this is in conference, hopefully, to seriously and conscientiously defend it.

I believe that there were some comments that I am going to refer to from the CONGRESSIONAL RECORD of Friday that would indicate that there may not be desire to do that. I want all of my colleagues to know how important this amendment is, and, more importantly, understand the very difficult problem it deals with.

The amendment that was adopted on Friday deals with litigation in Federal court by people who are in prison, including State prisons.

It makes it easier for the States and for Federal judges to require prisoners filing civil rights cases in the Federal courts to first exhaust available administrative remedies. It does not limit prisoners' rights to sue in Federal court at all. It merely ensures that judges can continue the case for the prison and the State in an interim period of time to try to resolve their complaint through an administrative grievance system.

Prisoners' civil rights cases are overloading and clogging our Federal courts. While the courts struggle to handle their criminal docket, they find huge portions of their time squandered on frivolous complaints by convicted felons serving time in State prison. In the past year, prisoners' civil rights cases were 14.2 percent of the total Federal civil docket. That is a mind-boggling 32,000 cases that are before our Federal courts—14.2 percent of all those cases coming from the very small percentage of the people in this country who are incarcerated. In Iowa and Arizona, they were an astonishing 48 percent of all Federal civil cases—these were civil rights cases brought by prisoners. In Missouri they were 46 percent of the cases; in Arkansas, 42 percent. And you can go on and on.

Let me say what the cost to the taxpayers is. These cases averaged $50,000 apiece, cost to the taxpayers—$50,000; from a very small percentage of the population, clogging the courts with 14 percent of the cases. In my State, 48 percent.

This is something that, it seems to me, this body has a responsibility to treat as a serious problem. We need to do something about it, and do something about it not only to save the taxpayers' money, as important as that is. Because the injustice here is to people who have not committed any crimes, never been in prison and want justice in our court system, but cannot get that justice because 1 percent of the people in this country are clogging the courts with 14 percent of the cases.

It seems to me we have a responsibility to make sure the other 99 percent of the people who have civil matters they want dealt with are able to get access to justice.

It would not be so bad if these prisoners had legitimate grievances. But I want to give an example of some of the cases that are being brought:

Keith Smith sued because a prison doctor would not give him birth control pills.

Charles McManus sued because he had to eat too fast in the prison mess hall.

Jesse Loden sued because he could not attend chapel in the nude.

That is a case in the Federal district court that might cost an average of $50,000.

In Nevada, child molester Chris Chapman sued because the prison would not let him subscribe to the North American Man-Boy Love Association bulletin.

In Florida, Donald Perry has filed not 1 but 42 lawsuits. One sounded very serious—it charged a guard with beating him with a flashlight. Mr. Perry neglected to mention that at the time he was stabbing the officer and a colleague with an ice pick. The jury ruled against Perry after a few minutes deliberation, but that suit still cost $60,000.

Another inmate sued because he was not allowed to deal drugs from his cell.

Obviously, my colleagues, or anybody listening wants to know whether this is a very serious business we are talking about, when these examples make it sound like it is almost a joke? Yes, this is serious business because it is taking up 14.2 percent of the caseload in our Federal courts and it is costing $50,000 per case.

There is another case here, one we discussed on the floor last week, maybe 10 days ago now. A group of inmates sued, claiming their freedom of religion was violated when the prison would not let their new religion—it is called the Church of the New Song, whose sacraments were chateaubriand and Harvey's Bristol Cream—meet and worship at their leisure. That case was in the court for 10 years.

In the ultimate ridiculous case, Kenny Parker sued, claiming cruel and unusual punishment when the prison served him creamy instead of chunky peanut butter.

These anecdotes from last month's ABC "20/20" broadcast on "The Great Prison Pastime" give some idea of the nature of the problem.

My amendment makes some very simple changes that Federal judges have urged. Let me give a little background to my interest in this, other than "20/20" making it real to the taxpayers of this country, so they demand that something be done.

Go back 4 years, I believe it was. Chief Justice Rehnquist appointed me as one Member of this body, Judge Heflin the other, among four Members of Congress who were on the Federal Courts Study Committee, a 20-member citizen/officeholder-type review of the Federal court system, the first review of the Federal court system in 200 years. For 2 years we studied and made recommendations on judicial reforms. This was one of the reforms suggested when we reported 2½ years ago—now 3 years ago, I think.

In addition to the four Members of Congress who were on this study committee, there were several circuit court of appeals judges, several Federal district court judges, appellate State court and local judges, prosecutors, and public defenders who made up the committee. So the judges have urged this problem be addressed.

First and most important, the amendment that was adopted makes it easier for the States to establish administrative grievance procedures under the Civil Rights of Institutionalized Persons Act of 1980. It will allow the court to continue a case for exhaustion of remedies if the court determines or the Justice Department certifies that the grievance system either substantially complies with the minimum standards laid out in the statute or is otherwise fair and effective. This is necessary because, as the Federal Courts Study Committee concluded, the current system is slow. The current system is onerous. And the current system has failed to encourage administrative resolution the State prisoners' civil rights claims.

This requirement is already imposed on Federal prisoners and has not caused any undue burden on legitimate claimants.

Second, the amendment extends the period during which the judge can continue the case from 90 to 180 days.

And, finally, the amendment adds failure to state a claim to the reasons a judge can dismiss a prisoner case brought in forma pauperis.

The changes to the Civil Rights of Institutionalized Persons Act are supported by the Administrative Office of the Federal Courts. Understand, what we are proposing here is already instituted for people who are in Federal prisons.

We want to apply this to State prisons. I have some figures comparing the State of Minnesota and my State, the State of Iowa. These figures show that where you do have an administrative grievance system like this working, it really cuts down on the workload of the courts. I will submit these for the RECORD. But let me note, for the State of Minnesota, in just 1 year, 1993, they had a total of 2,280 civil cases. Of those only 107 that dealt with the civil rights of a State prisoner.

In my own State of Iowa, we have had in the northern district 645 civil cases in 1993. Almost one-third of those, 191, were State prisoner civil rights cases. In the southern district of Iowa, out of 1,232 civil cases, 472, at least one-third, were State prisoner civil rights cases.

In Minnesota, they have a system for administrative determination of the legitimacy of some of these complaints.

It keeps frivolous prisoner cases out of the Federal court system, for the most part, so that these cases constitute less than 5 percent of the Federal docket in Minnesota.

In those other States that lack administrative grievance systems, there is a much higher percentage of these prisoner cases that get into the Federal courts and clog the Federal courts. The administrative grievance system could work in all of the other 49 States, like it is working in the State of Minnesota.

The reason I bring this up at this time, Mr. President, is because we had an hour's worth of debate set aside for the proponents and opponents of this on Friday. Mine was going to be the last amendment of the day, but Senator MOSELEY-BRAUN, because her mother has been ill, wanted to bring her amendment up. So, in the first instance, the manager of the bill, Senator BIDEN, said if we would keep the debate limited, we would have a rollcall, and he indicated to me in private conversation—I hope I am not violating any confidence—that he could perhaps even find fit to vote for it in a rollcall vote just to get it done away with and have a rollcall on it. That was to my liking at that particular time, because if you can get an overwhelming rollcall vote, I think it establishes your position in the conference.

That still would have taken too much time for the Senate to get its work done on Friday, and Senator MOSELEY-BRAUN wanted to move ahead. So he asked if I would give up the rollcall vote and just have my amendment accepted. I thought, based upon our previous discussion, that would be a perfectly good way to go. The hint that I got from Senator BIDEN was that he would vote for my amendment.

Then I read this statement in the Friday RECORD under Senator BIDEN's acceptance of my amendment:

> Although I have reservations about the amendment, having checked with the folks that have a deep concern about it, we are not happy about it, but we are prepared to accept it.

I know Senator BIDEN is not here, but maybe when he comes back he can discuss this with me because I would like to get some determination based upon what happened between the 5 minutes he originally talked to me and the period of time that he moved in debate in the Chamber of the Senate to accept my amendment, that it seems to me, looking back now, I would have been better off if I had not been cooperative and had a rollcall vote on my amendment and gone to conference with such a rollcall vote supporting my case.

I think, though, that on reflection, if Senator BIDEN will look at, and if anybody in conference looks at what my amendment attempts to do, looks at the success in States where this procedure does work, and sees how these cases by a small percentage of our population are, in fact, clearly clogging our courts and costing $50,000 on an average per case, they will conclude that we just cannot allow this system to go on. It is not giving justice to the people in prison, because such a high percentage of these cases are frivolous. And, second, it denies legitimate access to our Federal courts in civil matters, denying justice to people with legitimate grievances.

So I ask that when Senator BIDEN comes back, he please consider my remarks. I am hoping he will be able to make a statement of willingness to look into the seriousness of this problem and to help us get it solved, hopefully the way my amendment would solve it.

Mr. President, I ask unanimous consent to print in the RECORD the statistics I mentioned concerning the State of Minnesota and the State of Iowa, statistics on prisoner petitions commenced during the 12-month periods ended June 30, 1970 through 1993 and civil cases filed in U.S. district courts.

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

	Total civil cases	State prisoner civil rights
Minnesota:		
1989	2,255	53
1990	2,089	67
1991	1,942	62
1992	2,095	59
1993	2,280	107
Iowa/North Dakota:		
1989	665	104
1990	557	128
1991	626	179
1992	688	216
1993	645	191
Iowa/South Dakota:		
1989	1,279	390
1990	1,036	318
1991	1,061	356
1992	1,100	351
1993	1,232	472

U.S. DISTRICT COURTS CIVIL CASES FILED YEARS ENDED JUNE 30

	All civil	Filings	State prisoner civil rights	
			Percent of total	Percent change over previous year
Year:				
1989	233,838	25,039	10.7	
1990	217,700	24,843	11.4	−.8
1991	207,690	25,046	12.1	.8
1992	226,895	28,308	12.5	13.0
1993	228,562	32,369	14.2	14.3

U.S. DISTRICT COURTS PRISONER PETITIONS COMMENCED DURING THE 12-MONTH PERIODS ENDED JUNE 30, 1970 THROUGH 1993

	Grand total	Federal prisoners					State prisoners			
		Total	Motions to vacate sentence	Habeas corpus	Mandamus and other	Civil rights	Total	Habeas corpus	Mandamus and other	Civil rights
1970	15,997	4,185	1,729	1,832	488	136	11,812	9,088	694	2,030
1971	16,266	4,121	1,335	1,873	699	214	12,145	8,378	852	2,915
1972	16,261	4,178	1,590	1,636	700	252	12,083	7,964	776	3,343
1973	17,218	4,535	1,722	1,760	639	414	12,683	7,787	722	4,174
1974	18,410	4,987	1,822	2,089	631	445	13,423	7,626	561	5,236
1975	19,307	5,047	1,690	2,344	535	478	14,260	7,843	289	6,128
1976	19,809	4,780	1,693	1,969	626	502	15,029	7,833	238	6,958
1977	19,537	4,691	1,921	1,745	542	483	14,846	6,866	228	7,752
1978	21,924	4,955	1,924	1,851	544	636	16,969	7,033	206	9,730
1979	23,001	4,499	1,907	1,664	340	588	18,502	7,123	184	11,195
1980	23,287	3,713	1,322	1,465	323	603	19,574	7,031	146	12,397
1981	27,711	4,104	1,248	1,680	342	834	23,607	7,790	178	15,639
1982	29,303	4,328	1,186	1,927	381	834	24,975	8,059	175	16,741
1983	30,775	4,354	1,311	1,914	339	790	26,421	8,532	202	17,687
1984	31,107	4,526	1,427	1,905	372	822	26,581	8,349	198	18,034
1985	33,468	6,262	1,527	3,405	373	957	27,206	8,534	181	18,491
1986	33,765	4,432	1,556	1,679	427	770	29,333	9,045	216	20,072
1987	37,316	4,519	1,669	1,812	313	725	32,797	9,542	283	22,972
1988	38,839	5,130	2,071	1,867	330	862	33,709	9,880	270	23,559
1989	41,481	5,577	2,526	1,818	315	918	35,904	10,554	311	25,039
1990	42,630	6,611	2,970	1,967	525	1,149	36,019	10,823	358	24,843
1991	42,462	6,817	3,328	2,112	378	999	35,645	10,331	268	25,046
1992	46,452	6,662	3,717	1,526	515	904	39,790	11,087	395	28,308
1993	52,454	8,228	5,224	1,424	701	879	44,226	11,411	446	32,369

Source: Administrative Office of the U.S. Courts.

Mr. GRASSLEY. I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I understand we are in the midst of waiting for the next step. I know the two managers of the bill have been working very hard to try to set up an order of amendments. I understand I am not taking time from anybody at this moment who may be bringing up an amend-

ment. I want to speak just briefly on a subject which may seem at the moment somewhat unrelated, but it is not. It refers to our children, it refers to hunger in America, a matter of which the distinguished Presiding Officer is well aware. He has been one of the leaders in both the House of Representatives and in the Senate on hunger issues. I have been proud to work with him on that.

I mention it because it has to be also one of those areas that affects some of the conduct of children, such as criminality.

Incidentally, I should note, I have been advised by the distinguished Senator from Iowa that he had been asked to put in a quorum call when he finished speaking. I assure the Chair I will put in a quorum call, unless the managers are here on the floor, when I finish, so they may take back control of the bill.

I mention this because if you look at the issue of nutrition, undernutrition, it is really the scourge of America's children. We have in our country, in this rich powerful country, 1 million children at risk of impaired mental development. Why? Because of anemia, and anemia is caused by undernourishment—1 million children.

It really raises the issue that we have to stop hunger at once. I look at even the situation in my home State of Vermont, a State which has been blessed with natural resources, where people care for each other, a State that, as far as I am concerned, is one of the ideal places to live, and to grow, to be nourished and to be educated. But even in my State, we find 55,600 Vermonters are on food stamps. That is over 10 percent of the population of my State. In fact, the Vermont food bank provides 40 tons of food per month. They tell me that is nowhere near enough.

To put that in perspective, one of the scenic beauties of our State is Mount Mansfield, the highest spot in the State, but if you took 40 tons of food per month, put it into boxes of breakfast cereal and stacked them end on end, it would be 13 times higher than Mount Mansfield. Vermont's child poverty rate is 11.5 percent. There are 17,000 hungry children today in Vermont. Even short-term undernourishment affects a child's ability to learn and it affects a child's ability to be a productive and useful member of society.

I know that the Secretary of Agriculture is very concerned about this, too.

The Department of Agriculture, under Secretary Espy's leadership, is starting a series of regional hunger forums around the country. The first one will be held next month, December 13. It will be held in Vermont at St. Michael's College McCarthy Arts Center. It will go from 9 in the morning to 1 that afternoon. It is going to look at the extent and consequences of hunger, access to a healthy diet, and how you can take control of hunger issues. It will speak to a regional area, looking at all of New England.

I wish to thank Secretary Espy for picking Vermont as the first place to hold this extremely important series of forums on regional hunger, as he will in other parts of the country later on.

If we do not worry about hunger, Mr. President, we are not worrying about our children; we are not worrying about the next generation. There is not one Senator who goes hungry except by choice. We can walk out of this Chamber just a few blocks, and we will find people who do not have the choice of whether to go hungry or not. If they do not have the choice and have to go hungry, they also have a sense of hopelessness and a sense of desperation.

When we debate this crime bill, we ought to think of that as one of the reasons for the desperation we see in some of the crimes committed in this country. We are the richest, wealthiest nation, the most powerful nation on Earth. We have the ability, as no other major power has ever had, to not only feed all 250 million people of our country but to have food left over for export or for humanitarian reasons. Hunger should not exist in this Nation. I am hoping that this series of hearings will bring about the best ways to combat it.

As I said, the distinguished Presiding Officer and I have worked on these issues with our good friend, Harry Chapin, and with others in a bipartisan effort, both in the Senate and in the House, and I think as a result of some of the efforts on which we have joined together there are millions of people who are fed in this country today who would not have been otherwise.

I know when I became chairman of the Senate Agriculture Committee, I said at the first meeting of that committee, the first meeting with the Secretary of Agriculture, we were putting the word "nutrition" back, and it would be known as the Senate Agriculture, Nutrition, and Forestry Committee and that hunger would be a top priority.

Since that time, I am proud of the fact that millions of Americans are fed daily who would not have been fed other than because of the steps that we took. But it took a joint effort of both Republicans and Democrats in the House and the Senate to do that. I am proud of it.

So I hope people will come to this regional hunger forum, will join Secretary Espy and myself at St. Michael's College on December 13, and talk together to figure out how best we tackle what really is not only one of the great problems of this Nation but is a problem that shames so powerful and wonderful a nation as ours.

We should not have a million people at risk of impaired development because of anemia caused by undernourishment; we should not have a child poverty rate of over 11 or 12 percent; we should not have a situation with people in my State or any other State on food stamps. That must end.

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

The PRESIDING OFFICER (Mr. DASCHLE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. 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. DORGAN. Mr. President, I ask unanimous consent to speak as if in morning business for 5 minutes.

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

GETTING A WORD IN EDGEWISE ON NAFTA

Mr. DORGAN. Mr. President, in reading the Washington Post these past months, it struck me that I was getting a very heavy dose of pro-NAFTA propaganda. So, I decided to add it up.

I reviewed the editorial and op-ed pages of the Post from January 1 to the present. Sure enough, the heavy dose was an overdose. It turned out that the Post had devoted 40 feet of column space to pieces opinionizing on behalf of NAFTA. The pact's opponents, meanwhile, got all of 6 feet. That is nearly a 7-to-1 advantage for those pushing the NAFTA cause. A fair and competitive debate? A free and open marketplace of ideas? Hardly.

It looks to me as though the people who are preaching the virtues of competition and free trade for the rest of America, aren't practicing those virtues in the trade policy debate. And it is not just the Washington Post. I made the same tallies for the New York Times, the Los Angeles Times, and the Wall Street Journal—and some of them were even worse.

This one-sided debate is not because anti-NAFTA voices do not exist. There are plenty of us. So many, in fact, that passage of the United States/Mexico trade agreement in Congress is still in doubt.

But rather than give us a fair chance to speak, the Post and the others prefer to portray us as a bunch of backward folks who just pulled into town in a pickup truck looking for directions. We are dismissed as isolationists, protectionists, xenophobes, and labor dupes who fear the bracing winds of progress and change. NAFTA supporters, meanwhile, are always described as visionaries, statesmen, and deep thinkers, never corporate flacks or paid representatives of foreign governments; people who—like the pro-NAFTA pundits generally—are not likely to lose their own jobs if more plants move to Mexico.

This is a shame. The NAFTA debate ought to be a barnburner, not a steamroller—a long-overdue discussion of the basic trade issues our country faces.

For one thing, it could be an opportunity to show the public that trade is like most other issues: the truth lies in the details. The major dailies apparently have followed the lead of the Mobil Oil ad, which admonished the country to "set the specifics aside" and debate NAFTA as though it were simply a treaties on trade theory. Yet NAFTA is nothing if not specific trade rules for everything from beans to automobiles to french fried potatoes.

Many of these rules are totally unfair. Mexican producers of beans, potatoes, and other crops, for example, get big advantages over their American competitors. Food processors who stay in the United States lose, while those who move production to Mexico win—not just in terms of low wages, but with tariff and quota protections as well. The list goes on and on.

The Bush administration, which negotiated NAFTA, made a great show during its term of rejecting any form of industrial policy because they said it would put government in the business of picking winners and losers. Why then did they pick winners and losers in the trade negotiations for NAFTA?

That in turn raises more basic questions. Is NAFTA really about free trade when corporations are free to move their factories but workers are not free to move their labor, nor farmers their fields. Or, is NAFTA really about free capital flight—the movement of jobs—which is much different? Is the corporate agenda of producing abroad at Third World wages and then selling back to the United States marketplace really a strategy that will make the United States more competitive—or will it simply make us more jobless?

Most basic of all, of course, is whether NAFTA would take America forward or back. NAFTA is based on the 19th-century notion of competitive advantage, which holds that the global economy will work to clockwork perfection if each nation does what it does best, by virtue of climate, raw materials, and the like. Yet today, comparative advantage is generally political rather than natural; nations attract factories not by superior raw materials or dexterity of workers, but by keeping wages low, environmental standards lax, and so forth.

When all is said and done, NAFTA would take one of the worst aspects of our Federal system—the smokestack chasing that leads to enormous taxpayer subsidies and waste—and project it onto a hemispheric scale. It is true that this competition for jobs exists already. But that is precisely why we need a trade agreement that addresses the problem rather than enshrines it into international law. Why cannot the United States and Canada and Mexico work together to compete against Japan and the rest of the world, instead of competing with one another for factories and jobs?

Maybe we will still have that debate if the major newspapers let us get a word in edgewise. After all, if competition is good for trade, then competitive debates must be good for the agreements under which that trade proceeds.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. FEINSTEIN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. BIDEN. Madam President, the distinguished Senator from Mississippi [Mr. LOTT] is here, and has an amendment. He is ready to go with it. I would like to ask him whether or not he is prepared to enter into a time agreement whereby there would be a half-hour equally divided in the usual form, with no amendments in order to his amendment. If he is, I think it would be helpful.

Mr. LOTT. Madam President, if I might reply, I would be happy to agree with that. There may be two or three Members that would like to make comments on it. But I do not see any reason why we need to drag this out. It is pretty easy to explain. We will have a few statements. I would be willing to agree with a time agreement.

Mr. BIDEN. I so request, then, Madam President.

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

The Senator from Mississippi is recognized.

AMENDMENT NO. 1126

(Purpose: To amend title 18, United States Code, to provide mandatory life imprisonment for persons convicted of a third violent felony)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 1126.

Mr. LOTT. Madam 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 insert the following:

SEC. . MANDATORY LIFE IMPRISONMENT OF PERSONS CONVICTED OF A THIRD VIOLENT FELONY.

Section 3581 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c) IMPROSONMENT OF CERTAIN VIOLENT FELONS.—

"(1) DEFINITION.—In this section, 'violent felony' means a crime of violence (as defined in section 16) under Federal or State law that—

"(A) involves the threatened use, use, or risk of use of physical force against the person of another:

"(B) is punishable by a maximum term of imprisonment exceeding 1 year; and

"(C) is not designated as a misdemeanor by the law that defines the offense.

"(2) MANDATORY LIFE IMPRISONMENT.—Notwithstanding any other provision of this title or any other law, in the case of a conviction for a Federal violent felony, the court shall sentence the defendant to prison for life if the defendant has been convicted of a violent felony on 2 or more prior occasions.

"(3) RULE OF CONSTRUCTION.—This subsection shall not be construed to preclude imposition of the death penalty.".

Mr. LOTT. Madam President, this amendment in the form of a bill has generally been referred to as the LIFER bill. There is similar legislation pending in the House of Representatives with over 70 cosponsors. There are a number of cosponsors of this bill in the Senate along with perhaps some other versions of the same bill.

It is very simple to understand, really. It just says three strikes and you are out; or, if you will, three strikes and you are in.

If you commit not one, not two, but three felonies, on that third State or Federal felony you will go to prison for life, without parole.

If you talk to law enforcement officials, they will tell you repeatedly that one of their biggest problems is recidivism—those criminals who commit felonies repeatedly. In fact, about 70 percent of violent crimes are committed by the same 6-percent repeat offenders. So this LIFER bill would say that once you have committed a third violent felony, you would pay the penalty of life in prison.

There are a number of groups supporting this LIFER bill: The National Victim Center, Empower America, and various law enforcement groups, including the National Sheriffs' Association.

So I urge my colleagues to take a very close look at this amendment. I want to note now that the State of Washington, just last Tuesday, passed a version of this LIFER amendment. I understand there might be some differences. That one did include some grants to the State to help carry it out. But even States now are taking the initiative in this particular area. The State of Washington did it last week.

There is no doubt that a small hardened group of criminals commit most

of the violent crimes in this country. This amendment would begin to try to deal with this. LIFER stands for Life Imprisonment For Egregious Recidivists Act. Many of the people involved in these crimes are released again and again because of the "revolving door" of the prison system. They commit a crime, they are indicted and convicted, but we do not have enough prisons, so they are back out in the streets and they commit other crimes.

So we are talking about State and Federal felonies. They would have to go to prison for life. Seventy-six percent of criminals who have been jailed three times or more end up committing crimes once again. They think they have a license to kill, steal, and maim. They might have to serve a little time, but they get back on the streets.

A 1987 study by the National Institute of Justice found that the average multiple offender is responsible for $430,000 in crime costs. Putting just 1,000 more repeat offenders away would cost about $25 million more annually. But putting these crooks behind bars would save society millions of dollars and save many, many lives.

I would like to read from some of the letters that I received endorsing this legislation.

The National Sheriffs' Association said:

On behalf of the 22,000 members of the National Sheriffs' Association, we are writing to support the LIFER amendment to the crime bill.

The crime bill is certainly comprehensive in that it proposes reforms and solutions to several issues in the criminal justice system. However, this amendment will address the problem of victimization by removing some of the most dangerous criminals in our society. This is one big step in curbing recidivist crimes.

The National Victim Center also has written, and they make it very clear that they are concerned about this issue and would like to support the LIFER amendment.

I ask unanimous consent that the letter from the National Sheriffs' Association be printed in the RECORD at this point, along with the National Victim Center legislation letter.

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

NATIONAL SHERIFFS' ASSOCIATION,
Alexandria, VA, October 27, 1993.

Hon. TRENT LOTT,
U.S. Senate, Russell Building, Washington, DC.

DEAR SENATOR LOTT: On behalf of the 22,000 members of the National Sheriffs' Association, we are writing in support of the Life Imprisonment for Egregious Recidivists," (LIFER) amendment to the crime bill. We applaud your stand and comment you for your efforts.

The crime bill is certainly comprehensive in that it proposes reforms and solutions to several issues in the criminal justice system. However, this amendment will address the problem of victimization by removing some of the most dangerous criminals in our society. This is one big step in curbing recidivist crimes.

Once again, we thank you for your endeavors and support of the nation's law enforcement community.

Sincerely,

CHARLES "BUD" MEEKS,
Executive Director.

NATIONAL VICTIM CENTER,
Arlington, VA, November 4, 1993.

Hon. TRENT LOTT,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LOTT: On behalf of the Board Members and Staff of the National Victim Center, we wish to lend our full support to the "Life Imprisonment for Egregious Recidivists Act of 1993" (Senate Bill 499).

The National Victim Center works with more than 8,000 victim-related organizations and law enforcement agencies nationwide. These organizations and agencies serve on the front lines in our nation's war against crime. As such, they see first hand the horrible human toll violent crime exacts on innocent members of society.

Nothing is more demoralizing to victims and service providers than to see the same offenders destroying the lives of countless other victims, despite previous arrests, convictions, and sentences.

The criminal justice machine recycles the same career criminals time after time and crime after crime. The offenders appear unaffected by the process, but their victims are ground beneath its gears.

Statistics indicates that 6 percent of violent offenders commit 70 percent of violent crimes. Many re-offend within months of their release from incarceration. But the real cost can only be measured in human terms. Each cycle through the system comes at the expense of at least one victim.

The legislation you have proposed allows victims a first glimmer of hope that this vicious cycle can be stopped no later than the third turn of the wheel. Given the recidivism rates of our nation's most violent offenders, their is no doubt that tens of thousands of would-be victims will be spared and thousands of lives saved each year.

No greater accomplishment could be offered to the victims of crime in this nation than a measure which will prevent the addition of more members to their ranks. The "Life Imprisonment for Egregious Recidivists" bill is such a measure.

Therefore, the Board of Directors and Staff of the National Victim Center support this important bill and urge your colleagues in the Senate to make every effort to secure passage of this legislation.

Sincerely,

ROBERT S. ROSS, Jr.,
Executive Director.

Mr. LOTT. I also have a letter from the Law Enforcement Alliance. I will read one paragraph from this letter:

For violent recidivists, career criminals who thrive on violent antisocial behavior, we urge swift and certain isolation from society. Senator Trent Lott's S. 499, aimed at egregious, repeat, violent offenders is, we believe, society's most effective short-term response. These violent predators must be removed from society if we are to be safe from their deprivations. The daily carnage on our streets demands that we prevent these monsters from claiming more victims.

I ask unanimous consent that this letter from the Law Enforcement Alliance of America be printed in the RECORD.

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

LAW ENFORCEMENT ALLIANCE OF AMERICA,
Falls Church, VA, October 18, 1993.

Hon. JOSEPH R. BIDEN, Jr.,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: Once again, I am writing regarding the upcoming anti-crime bill on behalf of the now early 35,000 members of the Law Enforcement Alliance of America. The increase in LEAA membership since my last letter makes us not only the nation's largest coalition of law enforcement professionals and concerned crime victims, it makes us the nation's fastest growing organization of its kind.

I wish to call your attention to a concern of law enforcement that to date has received very little attention by legislators or the media.

Law enforcement occupies a unique position in its capacity of law conservators as first hand witnesses to the treatment of crime victims throughout our criminal justice system. Often we are the first to see victims immediately after they have suffered a criminal violation. We see them again during our investigation of the incident and yet again throughout the court proceedings.

We watch helplessly as the system often first ignores them, and then again as they are vilified during the actual trial. The greatest offense our system perpetrates against victims, in our view, is the primacy of perpetrator rights over those of their victims. We have watched and remained silent, until now.

Now we are compelled to break our professional silence and raise the cry for simple justice for crime victims and for society.

Over the decades, the courts have taken great pains and great strides to protect the rights of the accused and of those convicted of heinous crimes. We agree in principle.

But, those laudable goals have been turned into a travesty of their intent by the deliberate and frivolous petitioning for imagined or fabricated infractions. Further, the extremes taken to mitigate time served by turning penal institutions into virtual prisoner entertainment centers has failed to stem the recidivist rate from the days when prisons were extremes in austere living conditions.

We urge a determined legislative search for a solid middle ground that ensures basic rights, provides basic living conditions, and underscores the fact that inmates are serving time for a very real, very serious infraction of society's rules.

For violent recidivists, career criminals who thrive on violent anti-social behavior, we urge swift and certain isolation from society. Senator Trent Lott's S499, aimed at egregious, repeat, violent offenders, is, we believe, society's most effective short-term response. These violent predators must be removed from society if we are to be safe from their depredations. The daily carnage on our streets demands that we prevent these monsters from claiming more victims.

I emphasize that this is a short-term solution. It provides immediate protection, saves lives, and allows honest citizens the ability to enjoy life as described in the preamble to our Declaration of Independence.

Society is not the place to experiment with unproved long-term solutions to crime. Lives are at stake. We don't allow direct human

experimentation with drugs designed to cure our illnesses. We certainly shouldn't use humans, in this case society, to research ways to curb those who rape, rob, or kill. To do so is to heap yet another insult upon crime's victims.

We look forward to your leadership in providing sound measures addressing our concerns.

Again, we offer our assistance in any way possible to pass meaningful remedies to the nation's crime problems.

Sincerely,

JAMES J. FOTIS,
Executive Director.

Mr. LOTT. Madam President, last week, we did make some major revisions to this crime bill. I think we improved it considerably. We did add a large amount of funds for prisons, Federal prisons. These recidivists are the people who really need to be put in these Federal or regional prisons, as well as the prisons in the various States around the country.

I urge my colleagues to support this amendment. I believe it will go a long way toward really dealing with crime in this country. I noted late last Friday that the distinguished majority leader said, "There is not much in this Federal legislation that is really going to deal with crime and criminals in this country. A lot of it occurs under the jurisdiction of the State and local level." But recidivism is one place where we can make a difference. If we can begin to get these few thugs off of the streets, it will really make a difference, not only in cities like Washington, DC, but in rural areas across this country.

Again, I urge adoption of this amendment.

I yield the floor.

Mr. BIDEN. Madam President, I think I and all Americans sympathize with what my friend from Mississippi is attempting to do. In the crime bills that have passed in the recent 10 years, we have had some what we refer to as minimum mandatory sentences in the bill, like this being a minimum mandatory. For example, as the Senator accurately characterized, there is mandatory life imprisonment in this circumstance. I will read the language:

Notwithstanding any other provision of this title or any other law, in the case of a conviction for a Federal violent felony, the court shall sentence the defendant to prison for life.

The point is: "Shall sentence for life," Madam President. Now, the Senator from Mississippi—I was going to say "I am sure"—I suspect he had in mind what the Senator from Delaware did when I drafted minimum mandatory provisions 3, 4, or 5 years ago in previous crime bills; that is, what we are looking for here is the predator, the guy or woman out there—in almost every instance it is the man—who has committed a heinous crime, has been let out of jail and commits another one, and is let out of jail and then commits another one. He is clearly a predator. It is a term I use, not a term of art; but that is how I think of these folks, as predators. So we want to put them in jail. This would be the 3-time rapist and the 3-time murderer. You might say, should they not be in jail for life after one?

Well, the truth is, the average amount of time served in the District for a conviction for a capital offense, I believe, is 5½ years, and in other States it is similar. The reason I wrote the sentencing commission law with a couple others about 10 years ago, Madam President, was because your State of California was letting people out of jail after being convicted of murder on average of serving only 7 years. I remember Sirhan Sirhan coming up, and I said, "How in the Lord's name can we have that happen?"So they are the people we are all looking at.

One of the things that I found out is when you pass these minimum mandatory bills you sometimes end up in your net taking in people who you would never intend by the scope of the law when you write it to take in.

As I read this amendment—and I promise the Senate I am not trying to nitpick with my friend from Mississippi—but it says the definition of a "violent felony," to be precise, "means a crime of violence (as defined in section 16) under Federal or State law that—

"(A) involves the threatened use, use, or risk of use of physical force against the person of another;

"(B) is punishable by a maximum term of imprisonment exceeding 1 year; and,

"(C) is not designated as a misdemeanor by the law that defines the offense."

If one man takes his hand and that hand connects to another man's jaw, in almost every case in every State in the Union that is a felony. That is an assault. It is a felony and by definition of this law is a violent crime.

We all have in our small towns and our large towns the guy who gets drunk, who is the person who causes brawls in bars. We can identify them, particularly in small towns who they are. It is either Bubba, Charlie, Harry, Bill, or Pete. They may very well have been convicted twice of being in a fistfight in a bar-connected fight. Both are felonies. In almost every State in the Nation, a plain old, good old American fistfight, in fact, in most States is a felony, a violent crime punishable by more than a year in jail.

If that same person has the misfortune of also getting in one of those fistfights at Yellowstone Park, at one of the restaurants in Yellowstone Park, under this law, as bizarre as it sounds, a Federal judge, upon convicting, finding that person guilty, must send that person to jail for the rest of his natural life.

I do not think we are intending to do that. I know I should not say "know." I suspect that is not the intention of my friend from Mississippi.

As to a three-time rapist, I do not have even the slightest concern about that person spending the rest of his life in jail. As a matter of fact, in the violence against women legislation which was adopted as an amendment in this bill, we increased the penalties for rape. I am all for minimum mandatory life imprisonment—no probation and no parole.

These are aberrations that occur in the law. I wonder if my friend would entertain an amendment to his legislation whereby in subsection (c)(1) where it says "Definition" it says, "In this section, 'violent felony' means a crime of violence (as defined in section 16) under Federal or State law that"—and then to sections (A), (B), and (C) add a section (D) that says, "And carries with it a maximum penalty of 10 years or more," so that we do not end up inadvertently sweeping into our net people that a Federal judge would be required to put in jail for life—the drunken brawler who gets in his third fight and he happens to do it in Yellowstone Park while he is there—and the reason I say "Yellowstone Park," I am not being facetious—one of these offenses has to occur under Federal jurisdiction. So if he does a crime of violence on a Federal jurisdiction, almost by definition, with a few notable exceptions, it has to be a crime committed on an Indian reservation and/or a crime committed on Federal property.

Theoretically, I guess, if someone had two prior convictions for being drunk and disorderly and getting in fights and then happens to be watching this debate up in the gallery there and someone said, "I do not like what BIDEN says," the other says, "I like it," and he pops him, that is on Federal property, and that is a Federal crime.

The other thing I might point out is I think this is a very dangerous law to pass in terms of equity for American Indians, because if you are an American Indian and you get over a period of 10 years, 20 years, 30 years, convicted three times for being disorderly and/or a crime of assault with your fist because you are on an Indian reservation and that is Federal property, you might have to go to jail for life.

I do not think that is the intention of my friend from Mississippi. Maybe it is. If it is, I would like to know. If it is not, I would like to suggest maybe we could go into a short quorum call and see if there is any way he would be willing to further circumscribe this to get at the people he and I and everyone wants to get at, and those are people who commit serious heinous crimes.

I am not suggesting to get in a fight, one man with another, and without provocation one man hits another and knocked his teeth out or tooth out is not serious. That is serious. I am not trying to belittle that. I do not think

anybody is suggesting that person should have to be sent to jail for life with no discretion on the part of the judge because that happened three times over the period of his life.

But that is a question and a request.

Mr. LOTT. Madam President, will the distinguished Senatorfrom Delaware yield for a comment?

Mr. BIDEN. I am happy to yield.

Mr. LOTT. Certainly, I think for any rule you could find an exception. I can think of certain circumstances where obviously you would like for the judge to have some discretion. If you get in a fistfight one time, I guess that could happen with anybody. I am responding to the Senator's example about the fistfights. If you got into one, maybe you just got carried away; if you got into the second one maybe it was provoked. If you got in a third one, that is assault and battery, whatever the evidence. Keeping in mind that under the system we have, the judge has discretion with what he might have decided in the first case and second case. But after this third case, there is pretty good evidence that you have a repeat offender on your hands who keeps getting in fistfights and knocking people's teeth out and causing serious injury.

I think the point the Senator is making is a legitimate one. I would like to talk to him a little. I would like to look at the language and see exactly what he is proposing. Some flexibility perhaps would be something we could work together on, because I am not out trying to charge every petty crook with a felony, but these statistics we have here are not about petty crooks, but violent criminals. The Senator knows the ones we are trying to get to.

Mr. BIDEN. If the Senator will yield, I completely agree the statistics are overwhelming that there are, for example, as the Presiding Officer knows a lot about this issue as well knows that 6 percent of all the criminals in America—convicted folks—commit about 65 or 70 percent of all the serious crimes.

Mr. LOTT. Those are the ones we want.

Mr. BIDEN. Those are the ones the Senator wants. I have no disagreement on that.

I do not have any particular language in mind. All I want to do is believing, and the Senator confirmed it, they are the people he is going after, that there may be a way to tighten this a little bit so we do not inadvertently get the folks we do not want to get.

For example, under the Federal system, under the current guidelines a murderer with two prior convictions or one of these folks out there with two serious convictions gets an average sentence of 30 years under the Federal guidelines; whereas, a troublemaker who gets in three fights under the present guideline of the Sentencing Commission gets an average of 5½ years.

We are not looking to let off the bully who goes around knocking people's teeth out. They get 5½ years on average.

When the Senator was in the House and I was and we worked on this, under the Federal guidelines we took away the discretion of the judges. That is why they are mad. Right now the judges are not real happy with the Senator from Delaware, separate and apart from minimum mandatories because we passed a law that is the law now, and the Sentencing Commission exists out there.

For every Federal crime we make a crime, they must set up a sentence, and the sentences are those that are required. The defendant is required, the convicted person is required to serve that time. That is what we call flat time sentencing. In only rare circumstances can a Federal judge alter it by increasing or decreasing up to 15 percent the sentence. That is where we get this 85 percent, serve a minimum of 85 percent of the time having to be served.

I am taking more time than is needed to be taken here. I will not formally propound this at the moment, but I would consider propounding a unanimous consent request that we temporarily move off this amendment without the Senator losing the right to come back up and ask for a vote if he wants it and to see if we can work out language that somewhat circumscribes the people to whom we intend this to apply.

I am confident his staff and mine can work out some language. Again, I have nothing particular in mind. I have not thought through how it should be. I just want to tighten it so we do not get the folks we are talking about who are now in the Federal system doing 5½ years having to serve life without probation, parole, and without discretion on the part of the judge.

Mr. LOTT. If the distinguished Senator will yield further, perhaps at some point we could have that quorum call and talk more about it. I do know that there are a number of States, including the distinguished Presiding Officer's State, California, where they have a lot of repeat offenders. It is a serious problem when you have this combination of felonies; quite often one may not be so serious and the next one could be a lot more serious. I want to emphasize something I said a while ago, that the average multiple offender is responsible for $430,000 in crime costs.

While there might be some additional costs as a result of this amendment to incarcerate these people for life, it is estimated we could save $405 million per thousand prisoners if we could pass an amendment like this because of the burden of the cost on the judicial system, the law enforcement system, where these people come back and have to be tried again and again and again. It is something for which there is a lot of support.

I saw one poll just last week that indicated that well over 70 percent of the American people thought we should be tough on these repeat offenders. When I talk to policemen, sheriffs, and other law enforcement people in my State, this is the issue they mention more than anything else—more than habeas corpus, more than some of these other rules that we talk about. They say that if we had the surety of punishment of these repeat offenders, it would make their jobs so much easier and safer from that standpoint.

Mr. BIDEN. Will the Senator yield for one more question?

Mr. LOTT. I am glad to yield.

Mr. BIDEN. Again, we have no disagreement, at least he and I have no disagreement, on trying to get to these serious repeat offenders, three-time losers.

But I have a second question unrelated to that. And that is, I am a little bit confused the way the amendment is written.

Does this require a State to impose minimum mandatory life or only the Federal judge to apply minimum mandatory life? In other words, must the defendant be within the jurisdiction of a Federal judge—having committed his third felony, that felony being a Federal felony for violence—before this can happen, or is the Senator instructing every State to change their laws and for them to impose at a State level in State court minimum mandatory life imprisonment?

Mr. LOTT. Madam President, I would like to respond to the Senator's question. It is not my intention that we micromanage every State judge. Obviously a Federal judge would impose such sanctions under this amendment.

Mr. BIDEN. I think the Senator has it fairly clearly in this and I was not suggesting it was not.

But we have a rash, as my friend from Mississippi knows—a State's right man, a man from a State that protected its own integrity and fought for that—we have more conservatives, liberals, moderates, Democrats and Republicans insisting in this crime bill that we require States to adopt every aspect of the Federal system. I am pleased to see that is not what the Senator is doing here.

I would like to suggest, for purposes of trying to work out this language as to what the definition of a serious violent offender is, I would like to suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested.

Mr. BIDEN. I realize I must ask unanimous consent to be able to go into a quorum call without the time for the quorum being charged against the remaining time that the Senator from Mississippi and the Senator from Delaware has on the Lott amendment.

The PRESIDING OFFICER. Is there objection? There being none, that will be the order.

The clerk will call the roll.

Mr. LOTT. 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. LOTT. Madam President, I ask unanimous consent that I be permitted to modify my amendment. I send that modification to the desk.

The PRESIDING OFFICER. Is there objection to the modification? There being none, it is so ordered. The amendment is modified.

The amendment (No. 1126), as modified, is as follows:

At the appropriate place insert the following:

SEC. . MANDATORY LIFE IMPRISONMENT OF PERSONS CONVICTED OF A THIRD VIOLENT FELONY.

Section 3581 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c) IMPRISONMENT OF CERTAIN VIOLENT FELONS.—

"(1) DEFINITION.—In this section, 'violent felony' means a crime of violence (as defined in section 16) under Federal or State law that—

"(A) involves the threatened use, use, or risk of use of physical force against the person of another;

"(B) is punishable by a maximum term of 5 years or more; and

"(C) is not designated as a misdemeanor by the law that defines the offense.

"(2) MANDATORY LIFE IMPRISONMENT.—Notwithstanding any other provision of this title or any other law, in the case of a conviction for a Federal violent felony, the court shall sentence the defendant to prison for life if the defendant has been convicted of a violent felony on two or more prior occasions.

"(3) RULE OF CONSTRUCTION.—This subsection shall not be construed to preclude imposition of the death penalty.".

Mr. LOTT. Madam President, before I yield the floor, I would like to point out I had a discussion with the distinguished chairman of the committee and other Senators, and we have agreed to the modification that would change, on the second page of the amendment, section "(B), is punishable by a maximum term of 5 years or more."

This would replace the language that had said, "imprisonment exceeding 1 year." I think this is an improvement. This is the language basically that was recommended by the Senator from Delaware to get at those most violent crimes and criminals.

I think this is a reasonable approach. That is why I modified the language.

I ask unanimous consent that Senator MCCAIN be added as a cosponsor of the amendment and Senator GORTON, of Washington.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, as Senator BIDEN said, the scope of definition could cover prior conditions, which the Senator from Mississippi does not wish to cover. I commend my colleague from Mississippi for working with the Senator from Delaware to make it clear this amendment applies to individuals with three felony convictions for crimes incurring a maximum penalty of 5 years or more. I think that is a reasonable way to resolve this.

I commend the distinguished Senator from Mississippi for his efforts in trying to get this provision through because I think it is important. He has made the right decision. I think that this provision will help us in this fight against crime.

Mr. BIDEN. Madam President, how much time does the Senator from Delaware have?

The PRESIDING OFFICER. Two minutes fifty-three seconds.

Mr. BIDEN. I ask unanimous consent that we be able to increase the time on each side 5 minutes.

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

Mr. BIDEN. I yield 5 minutes to my friend from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Madam President, I thank my friend, the distinguished Senator from Delaware. I am pleased to have been added as an enthusiastic cosponsor to this modified amendment.

Last Tuesday when the citizens of my State passed Initiative 593, with more than 75 percent voting in favor, they made the State of Washington extremely unpleasant for two-time violent offenders to live. If someone now commits a third serious felony in Washington State, they are going to go to prison for life. The Nation watched this election campaign as the initiative was entitled, "Three Strikes, You're Out." That is the case now in Washington State. It will be the case under the Federal system if this amendment is to be adopted.

Let me tell you just one of the significant differences this makes in the State of Washington. Up until this point, before this initiative passed, the average prison term for a child molester who had two previous sex felony convictions on his record was 9½ years. That will not be the case in the future. We will not have that kind of predator going in and out of the revolving door in the State of Washington.

I regret to say that 2 years ago the State of Washington had the sixth highest crime rate in the Nation, and that last year there was another percentage increase. This is a reaction by the people of the State of Washington in repudiation of that kind of record and particularly because two-thirds of all violent crime is committed by a relatively small handful of offenders.

My citizens, the people I represent, want those predators off our streets, away from our schools and safely behind bars. As a consequence, this is one of few amendments on any bills with which we deal in which we have a graphic illustration in the very week in which we vote, that people in one State, who I am convinced are typical of people across the United States, have told us precisely what it is that they wish.

The modification, which the Senator from Mississippi has offered, makes it certain that this will not inadvertently be applied to some of those who have engaged in crimes, which most of us probably would not regard as being serious enough to count against the "three strikes you're out" strategy. In Washington State, when our young people play baseball, "Three strikes and you're out." The people of the State of Washington have said to violent criminals, "Three strikes and you're out." The Lott amendment says to those who are charged under the Federal system: "Three strikes, you're out."

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Madam President, how much time do I have?

The PRESIDING OFFICER. Seven minutes and twenty-four seconds.

Mr. LOTT. Madam President, if I could take a moment to commend the distinguished Senator from Washington for his statement. Having served as attorney general of the State of Washington before he came to this body, he had an outstanding record and was well respected as an attorney general by the attorneys general from all over this country. I know that is the case because I have talked with other attorneys general with whom he served. I am very pleased he came here this morning and was able to work with us on this modification. His statement is a very ringing endorsement.

I commend the people of his State of Washington for the vote they had last Tuesday. They are very serious about dealing with these repeat offenders. I believe it adds a great deal of weight and timeliness to this particular amendment.

Madam President, I do not have any further request for time at this moment. I would like to ask for the yeas and nays, so perhaps we can be assured of getting a recorded vote, perhaps at an agreed-to time. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Madam President, with the permission of my friend from Mississippi, I ask unanimous consent that the vote on this amendment, for which the yeas and nays have just been ordered, occur at 2:30 today.

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

Mr. BIDEN. That being the case, I yield back whatever time I have remaining on this amendment.

Mr. HOLLINGS. Mr. President, I was unable to be present for today's vote on the Lott amendment, the so-called three time loser amendment. I would like the record to show, had I been in attendance, I would have voted for the amendment. I believe this is a much needed amendment. We must take those who continue to perpetrate violent crimes and make sure they never walk the streets again. We must insure these repeat offenders are isolated from society forever. Again, I just wanted to let the record show that despite my absence, I support the amendment of the Senator from Mississippi.

The PRESIDING OFFICER. All time is yielded back.

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

The PRESIDING OFFICER. Time is yielded back.

Mr. BIDEN. Madam President, I think we are very close—we are literally drafting the final language, as they say, crossing the t's and dotting the i's on four major initiatives that the Senator from Utah and I have been working on literally for the past month. They relate to several major areas of the bill.

So, unless someone wishes to speak, I am going to suggest the absence of a quorum and hopefully between now and 2:30, we will be back with that drafted language which we can approve and accept prior to the rollcall vote on the Lott amendment.

Further, that upon the completion of the Lott amendment, we hopefully will have another amendment we can go to for action and debate, as we are lining them up. Those offices that are listening to this proceeding on the floor, I urge you if you or your Senators have amendments that you are seeking to offer to the crime bill, let the floor staff know so we can try to order them.

I see my distinguished friend from California, the Presiding Officer, perking up because I know she has a major amendment which I am sure in due time we will get to. Hers is so major, once we get to it, we may not get to anything else for a couple of hours. So maybe we can get rid of some additional amendments in the meantime.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. BOXER). Without objection, it is so ordered.

Mr. GLENN. Madam President, the debate on the crime bill has been long and will be even longer. It is one of the more important pieces of legislation we will probably pass this year.

Madam President, we pass laws in this country so that as a civilized nation we can all live together, so that we have the greatest good for the greatest number of people. We pass laws to that end, but some people find it difficult to live within those laws or deliberately try to short-circuit the system, the American democracy that we all know and love so well. They try to do things that disadvantage the rest of us, and they break our laws.

When they do, certain things then occur. The police system in this country starts out by trying to apprehend these people. There are a lot of people involved in that effort. And once our police system apprehends one suspected of a crime, we have a judicial system that goes to work and says, OK, you have been charged with certain crimes, and you now have certain constitutional privileges to protect you against unlawful abrogation of your rights. So we have an elaborate judicial system to make sure that everybody has their day in court and a fair hearing. And at the end of this whole process, which sometimes is far too lengthy, we finally have a judgment of guilty against a high proportion of these people.

Then, if things worked as they are supposed to, we have punishment meted out. Those who find they cannot live in harmony under the laws of this country receive punishment for their infractions. That is the way our system is supposed to work.

What we are considering in this crime bill is whether that system is working properly or not. And we are debating how we can strengthen the system so that it works better and so that it works more fairly for everybody in this country of ours.

Let us go back through those three things again—apprehension by our police system, determination of guilt by our judicial system, and punishment.

First, apprehension of those who break the laws. We have in this country right now around 600,000 sworn officers in police and sheriffs departments. In this legislation, we are going to increase the number of officers by up to 100,000 over 5 years. Needless to say, this is a very substantial increase.

No one doubts that will make some difference, just by the fact you see more policemen out on the street. But is that the answer? No. I do not think that is the principal weakness of our whole system of crime and punishment in this country. The facts are that we have more arrests now than we are able to accommodate within our judicial system and more than we are able to accommodate within our penal system. The police are simply arresting more people than we can handle.

Now, will this visual presence out on the street do some good? Of course it will. How many times have you driven along a road just a little bit over the speed limit and just the sight of a police car—what the Ohio State Patrol used to call visual patrol, just parking a car out along the road—leads you to lift your foot off the gas pedal to make sure you are back under the limit. We have all done that. I admit to it myself.

So whether it is by the highway patrol out along the highways or whether it is a new cop out there on the corner, through visual presence crime is deterred. That will work to a certain degree. But I submit that our central problem is not the lack of police officers. They are arresting more people now than the rest of the system can handle.

Let us look at the judicial system for a moment. The rights of people are protected through the court system. It is a long and arduous process. That judicial system is severely strained, as the distinguished majority leader pointed out in the Chamber here last week. He believes that we need more people in that system so that we move people through the system more quickly and make sure their rights are fully protected—and I agree with that. But once again I submit that we are convicting more people through that system than we are able to take care of.

So we come to the last part of that system, the punishment part of the system—taking away the freedom of those who cannot live within the boundaries of the laws that we depend on in this democratic society of ours.

Depriving a man of his freedom is not done lightly. But once it is decided by the courts, after all of the constitutional protections have been afforded, after all of the police apprehension efforts, after all of the judicial proceedings, at that point the carrying out of that sentence should be swift; it should be certain; and it should be meaningful for those who violate the law and do not fit into the norms of society.

It seems to me that here is where our whole system of crime and punishment begins to fall apart these days, because our problem is not that the judicial system is in chaos; it is that the punishment system, after the judicial system has worked, is in chaos. Our whole penal system is in literal chaos. It is overloaded. It is crowded. People are not serving their sentences. We even have such overcrowding of prison facilities we are under court orders to correct the situation in the majority of States, including my home State of Ohio.

The system right now makes a mockery of justice. When the police go out, all too often at the risk of their own lives, and apprehend the criminals, the judicial system works and sentences are handed out. But then when punishment is nonexistent or minimal at best, we are engaged in the process of

creating a nation of scofflaws who are making a mockery of our penal system. They know they have committed a crime. Why not go out and rob again? You get very little for it, a hand slap, parole, maybe some minor punishment. Why not grab an old lady's purse and run down the street with it? You are not going to get anything much if you get caught anyway. What matters if you steal from your employer? Does that make any difference? They are probably not going to be able to prove it. If they do, the sentence will probably be light.

Why not sell drugs? It is easy money because your prison sentence will probably be minimal. Why not drive drunk? You know there will be minimal penalty if you are caught.

I read in the paper a few days ago where a person, I believe in Florida, drove across a median, drunk, ran into some other cars, and several people were killed. That person had been arrested for drunk driving 24 times previously.

How about white-collar crime? Does it get punished properly? No. Too often not.

Over the last few days we have had soaring rhetoric from Senator after Senator after Senator. We are going to get tougher. We are going to outmacho anybody else. We are going to show them we can be as tough on crime as anybody will be, and we will show them through proposals such as the death penalty that we really mean business on crime.

So we pass all sorts of things that lead us into thinking that we are doing something, and leads the American people into thinking we are doing something, when I feel we are not even addressing the major weakness. The part that is missing is really meaningful confinement, the loss of liberty for those who cannot obey the laws that everybody else obeys.

Let me go back to the last time we had a crime bill on the floor. Let me tell you my little personal experience. This might be of some interest to my colleagues on both sides of the aisle who are up for reelection and want to touch the hot button among the people on crime. In 1991 when the crime bill was on the floor for debate, I happened to have been in the Cloakroom and planned to take part in the debate. But what they were debating at the time I came on the floor was the amount we were going to spend to help States build prisons, and what was going to be spent on the Federal prison system.

I was interested in this because back home when I was running for election back many years ago, I had made some statements about my thoughts on how crime should be punished once the judgment is in—that crime should be punished immediately, and we should have adequate prison space.

I had put together and proposed some ideas at that time, not for great new brick and mortar palaces that we put people in, not the slammers that have to deal with the violent criminals, but ways of dealing with the nonviolent criminals and how we could incarcerate them without building these great big expensive structures costing hundreds and hundreds of millions of dollars.

I made my statements that day on the floor concerning some ideas on low-cost incarcerations that I thought were very good. I proposed that we use some of our construction techniques that have been used in the military and that I have had some experience with. And I proposed that we build not just great big new brick and mortar things where each cell costs as much as $50,000 per prisoner, more than many of the people that they have offended paid for their homes. I think it isridiculous to be putting out that kind of money for nonviolent prisoners.

I do not question locking the violent people up in whatever the most secure facilities are. But for nonviolent prisoners, I do not think we need that same kind of construction nor that kind of security.

Is there a better way? Is there a cheaper incarceration for the nonviolent? I believe there is.

I spent some 23 years in the Marine Corps putting in my military time along with several million other Americans who did not live in great big brick buildings for years at a time. We lived in low-cost housing like Butler buildings or, back in World War II days and since then, Quonset huts, plain old Quonset huts.

Everybody is familiar with what we mean when we say a Quonset hut. But whether it is Quonset hut, Butler buildings, prefabs, or mobile home conversions, or whatever it may be, I believe we can do prison and jail construction more inexpensively. Some localities have even tried things like taking old 18-wheeler trailers off the highway after their days are done, refurbishing them and making them into quarters for people; even things like that may have practical application in our prison system.

Is this inhuman? Is this inadequate? Our military experience is that millions of good American citizens in the military lived in quarters just like that for years at a time, and did it without any problem at all. Whole families lived in quarters like that. I know because on two different occasions my family lived in half of a Quonset hut, and it was quite adequate. But it was constructed at a mere fraction of the cost that a big brick and mortar building would have cost.

This is not something that just applies in the tropics. People lived in things like Quonset huts and Butler buildings for month after month, year after year, from the Arctic to the tropics. You can take these buildings and make them just as livable as any other building.

I still visit bases around this country and around the world, and I find some of these buildings still being used some 45 years after they were constructed. They are not constructed for just a few months of use. They can be made just as livable from the Arctic to the tropics and from summer to winter use.

We love to rise on the Senate floor and talk about the crisis of crime. And it is a crisis. No one doubts that. But when we deal with a crisis, are we willing really to come out and say here is a cheaper way that we can make sure that people serve the sentence that they have received?

We are putting somewhere around $6 billion into prison construction in this bill.

Let us say we take an average cost of $50,000 per cell for regular prison construction across this country. What will $6 billion mean divided by $50,000 per cell? It means that 120,000 additional people could be locked up, even if this bill works out perfectly.

Yet we find in my home State of Ohio, we have some 40,000 people locked up. But our capacity is only 21,863 prisoners. So we are nearly double the capacity of the Ohio prison system right now. And Ohio is not alone.

I think we would come a long ways toward tripling or quadrupling the effect of that $6 billion if we did not insist on all of this brick and mortar construction and went to quite adequate low cost quarters, whether they be Quonset huts or Butler buildings, or some other type of low-cost housing.

We also have excess military bases around this country. They have all the facilities of a city. They have sewer, water, lights, buildings, bunks, recreation, the whole works furnished right there, ready to be moved in once those bases are surplus. They should be utilized.

One thing that is provided in the bill that I think is good is it encourages regional use of the facilities like that for several States. I think that is important. I hope that some of the States exercise their rights once Federal entities have indicated there is no Federal use for the property and it becomes the right of the State as the next claimant. I hope that States are willing to work out some agreements where they can use those bases for prisons. They are set up ideally for this purpose.

Next, I think we should expand existing penal facilities within States by some of these cheaper methods that I am talking about. What is wrong with going to some of our facilities in Ohio which are overcrowded using some of these cheaper construction techniques to expand their facilities on those same grounds? What is wrong with that? I see nothing wrong with it myself. I repeat, millions of Americans have lived in those and far worse facilities in serving their country. I find it difficult to think this would be inhumane or is not

the way to treat prisoners. I think it is every bit the way to treat prisoners.

A third area: If we establish new prisons, I submit that we would get our greatest bang for the buck by doing what I am talking about here and not trying to insist on great big brick and mortar buildings costing $50,000 a cell. Why not go out on a 500- or 1,000-acre plot of land someplace, put security around it, double concertina wire, flood lights at night? But within that area, the living area is of the cheaper construction I am talking about, which would save billions of dollars.

If we establish these new prisons, I do not think there is any problem with perimeter security on anything like that. I find people thinking we have to have all sorts of exercise equipment and gymnasiums and nautilus equipment and rowing machines for prisoners. What happened to the day when you could get your exercise by running around the perimeter of a facility—inside, of course—running around to get your exercise? What is wrong with having the people build their own Quonset huts, as far as that goes? About six people can build one in 3 or 4 days, once you lay out the construction and know what you are doing. You can insulate it and do whatever you want with it.

What is wrong with having prisoners build some of their own facilities? That has been tried in Arizona. They built 100 Quonset huts and housed a number of people in them over a number of years. What is wrong with people growing some of their own food on that ground? A hoe in the hand to some of these people might lead them to learn that tomatoes do not come in cans and so forth. I do not see why it is a problem to have them grow some of their own food. I could go on and on with the analogies, but it is not necessary.

In other words, a Quonset establishment like that can have buildings for whatever purpose you may want to have a building built. You can join them together, and you can have a library, you can have your shower and toilet facilities, and you can have whatever you want, and it can be done at a fraction of the cost of what it is now. That is what I talked about when I came on the floor 2 years ago.

Advice to my colleagues: Let me tell you what happened. This was 2 years ago before the current furor about the rise of crime and what we are going to do about it. I left the floor that day, and by the time I got back to our office—this whole presentation having been made on C-SPAN, of course; now that the Senate is broadcast by C-SPAN all over the country every day—by the time I got back to my office, the phones had lit up, not just from back home in Ohio, but from all over this country. People were saying, "Why not? What is wrong with that idea? It is the best idea I have heard of in a long time." We got a terrific increase in mail over the next few weeks on this very subject. People were saying, "What is wrong with it? We do not want the crooks back in our neighborhood. Why does everybody convicted not serve some time?" And they are right.

Following that time, I had such an outpouring of interest, I went back and spent a week at the next break going all around Ohio. I asked the people in several of our major communities—six of them—to set up meetings with prosecutors, police, sheriffs, judges, mayors, all in onemeeting, to talk about what was wrong with our criminal justice system. What is lacking in our present system that would make the whole system work better?

Well, what I found was a great frustration on behalf of the prosecutors, police, sheriffs, judges, the mayors, that after all of the efforts to apprehend, after all of the efforts in the judicial system, too often, the final outcome was that the prisoner walks free to do it again. This was the frustration of these people who were most involved. Why? Because there is no place to put them. Or you have to let one go early for every new one that you put in.

Let me give an example. In one of our major counties, the sheriff there told me he had between 50,000 and 70,000 unserved warrants. He did not send officers out to arrest more offenders because he did not have anyplace to put them anyway. At that time, the sheriff 2,900 times had given people convicted of crimes letters telling them when to come back—up to 18 months later—to start serving their sentence. When and if they came back in 18 months, what would be the result? They would have to put somebody out of prison to let this other person in. If that is not a mockery of justice, I do not know what is.

Earlier I referenced the crisis facing Ohio's prison system. It is creating a situation where we are letting people get by without serving any major penalty because we have no place to put them.

What is wrong with the idea of Butler buildings, or Quonset huts, or converting trailers, or whatever, for our nonviolent prisoners? I see nothing wrong with it. Millions of Americans have lived under those conditions and lived quite well while they were in the military.

I see no reason why our prisoners should be treated better than the people in our military. If we had a system the way it is supposed to work, we would have enough bed spaces out there, in whatever type facility. We should have beds waiting. We should have beds waiting so that when a judge imposes a sentence he knows that person is going directly into prison and not be let off. We should have enough space so that a prison official does not have to put somebody out of the prison to let another person get into the system. It just makes common sense.

How are we ever going to carry out the Stevens proposal, which I fully back up, saying 85 percent of every sentence should be served? I submit that is impossible to do with the present spaces that we have available.

When I came to the Senate floor a couple years ago, a man in Cleveland was listening that day and sent me a little model. Everyone likes to come on the Senate floor these days with little models of everything. Since we went on C-SPAN, I think the cost of doing charts for the Senate floor must have gone up 10,000 percent. I would like to know what the bill is now for placards. We love to have easels on the Senate floor. This man sent this to me from Cleveland. This man was Mr. Milton Rudler. He heard what I said and was interested in seeing what he could do to make a model of this. Here is an old World War II style Quonset hut.

I do not think he knew we were having a brand new debate on this subject, but he sent a model of a new Quonset hut the other day. He sent us one that looked like prisoners could be incarcerated in without hurting their souls too much. Here it is.

So we are gaining our own little city of model Quonset huts here so everyone will see what these look like. This has shrubbery around it, a flag out in front, and a few other things with it. This Quonset hut looks a little better than the old World War II style, I must admit.

What I am submitting is not an ad for Quonset huts. It is an ad for low-cost incarceration of nonviolent prisoners.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BIDEN. If the Senator will yield for a question?

Mr. GLENN. I yield for a question.

Mr. BIDEN. As I understand it, the Senator from Ohio has another half an hour?

Mr. GLENN. No, about 10 minutes.

Mr. BIDEN. The Senator from Ohio has another 10 minutes on the issue he was speaking to.

Then, what I would like to do, with the permission of the ranking member, comanager of the bill, is then move to the Helms amendment. Senator HELMS has an amendment on restriction on payments of benefits to individuals confined by court order to public institutions pursuant to verdicts of not guilty by reason of insanity or other mental disorders.

Mr. THURMOND. Madam President, we have an amendment following that of Senator HELMS.

Mr. BIDEN. Madam President, what I would like to do—we have been attempting to go back and forth here, Democratic and Republican amendments—I would be delighted to go to

the Senator from South Carolina after the Senator from North Carolina, assuming there is not a Democratic amendment intervening. But I want to put everyone on notice at the expiration of the 10 or 12 minutes time the Senator from Ohio is going to take, I would ask unanimous consent we then move to the Helms amendment with a time agreement of 15 minutes equally divided, with no second-degree amendments to be in order.

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

Mr. BIDEN. In the meantime, I will sit with my friend from South Carolina and others to see if we can line up additional amendments to go upon the completion of the Helms amendment.

I thank my friend from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DORGAN. Madam President, I wonder if the Senator from Ohio will yield for a comment and question?

Mr. GLENN. I yield for questions without losing my right to the floor.

Mr. DORGAN. Madam President, I have worked with the Senator from Ohio [Mr. GLENN], on this amendment and I am a cosponsor with him.

This amendment furthers what we are trying to do with the crime legislation I introduced last month. Senator GLENN cosponsored this legislation, which attempts to develop alternative incarceration facilities.

Senator GLENN has made the point that is important to remake. One half of the people in prison are nonviolent. I believe there is no reason for us not to take these offenders out of regular prison cells, put them in converted air bases or Army bases with alternative incarceration facilities, and free up the prison cells for violent criminals. This will give us the room to stop turning criminals out early or not even putting them in, as is now the case.

The interesting thing about this approach is that it is a way of doing things better and doing things smarter. We do not always haveto throw money at problems. Senator GLENN has suggested that we could build prisons for nonviolent offenders for about one-fifth the cost of building regular prison cells for violent criminals. We have plenty of cells, let us just put violent prisoners in them and turn some of the nonviolent prisoners out into a different kind of incarceration facilities.

I think that nonviolent prisoners sentenced to prison ought to serve their time. But, why not provide alternative facilities that are one-fifth as costly and open up those prison cells to put violent prisoners in. The Senator from Ohio has been talking about this for some long while and does the Senate, I think, a real service in pointing out how we can do the same thing at much less cost. We do not always have to look for the most costly approach to solve a problem.

Finally, one other point that I made when we debated alternative forms of incarceration last week. The problems in this country are not just related to an epidemic of violence, but an inability to put those who are violent behind bars and keep them there. Almost every major crime has been committed by someone we knew, someone who has been in jail and was turned out. Why? Because there is overcrowding. Senator GLENN's amendment solves that and at one-fifth the cost.

The Senator from Ohio has done a real service and I just want to compliment him for it and ask him if he does not concur that his approach would save an enormous amount of money and accomplish the same result?

Mr. GLENN. It would certainly lock up far more prisoners for the dollars spent. That is the bottom line of what we are trying to do here.

The PRESIDING OFFICER. If the Senator will suspend for one more moment, I am going to get the Senate in order.

The Senator from Ohio.

Mr. GLENN. What we are talking about is that we should have enough spaces in our prison system so that when a judge sentences someone to a time in jail, there should be a bed waiting—and that space should cost the taxpayers the least amount plausible.

A judge should not be constrained by having to integrate part of his thinking into the fact that we do not have a spot for that person unless we put another one out. What kind of a criminal justice system is it that sends us through an apprehension process with the police out there sometimes risking their lives, through an expensive judicial process, through a sentencing process, and then it ends and we say, "Oh, yes, I forgot, we don't really have any place to put you. And so we are going to send you back to your community with a letter to wait your turn as to when you will serve. And when you do come back in to serve that sentence, we will have to put somebody else out to accommodate you," as is happening right now in my home State of Ohio.

Madam President, Senator STEVENS made a proposal that 85 percent of the sentences should be carried out. I agree with that; 85 percent of the time assigned should be served. We just adopted moments ago in this Chamber a proposal that says if you are a three-time felony offender, you go to jail. No question, that is it. But where are they going to go to jail? That is what I am trying to address today.

Almost half of the people that have been through the criminal justice system in this country—they have been apprehended, been charged, been judged and given a term—almost half of them are nonviolent prisoners. Why do they have to have be housed in brick and mortar high security facilities when those are needed for the violent prisoners? Putting them instead in low-cost housing would relieve much of the stagnation in our prison system, as I see it.

We have a GAO report that came out in October of 1991, almost 2 years ago. It is called "Prison Costs, Opportunities Exist to Lower the Cost of Building Federal Prisons." And they are so right. If anything, this has become even more obvious over the last couple of years since this report was published in October of 1991: "Prison Costs, Opportunities Exist to Lower the Cost of Building Federal Prisons."

I wish I did have a blowup of this. I was making a little bit of fun about some of the charts and pictures we see in the Senate Chamber these days. I wish everyone could see this. It pictures facilities in Arizona and Florida that would be the envy of any small college. They are beautiful facilities. These facilities are far better than the places where many of the prisoners came from, I can guarantee you that. These are beautiful facilities and they house nonviolent prisoners as well as violent ones. Nonviolent prisoners do not need to be in a facility where there is a slammer, where it has to be locked up at night.

According to the GAO report:

> The Bureau of Prisons' overall philosophy is that the term of confinement is the punishment, not the conditions of confinement and that inmates should find their surroundings safe, humane and "normalized."

Then it says:

> Thus, prisons are designed to provide a campus-like setting with recreation areas and landscaped grounds that give the inmates space for some freedom of movement.

Campus-like facilities—the pictures I just showed here, those are very plush campus-like facilities, I can guarantee you that. Is that what we really mean by establishing prisons and sending people to prisons?

Let me get on to the costs. Federal prisons cost more to build than State prisons. In the report, construction costs are compared.

> The State prisons analyzed ranged from about $11,000 and $93,000 per bed with an overall average of about $55,000. Construction costs for the four Federal prisons range from about $50,000 to $85,000 per bed and averaged about $70,000.

This is for violent and nonviolent prisoners. Why are we spending more than the homes they came from to lock them up—more per cell—when they could just as well be housed like millions of Americans have been housed for years and years and years, for many decades, ever since World War II. Not in inhumane facilities, but in something like these model Quonset huts, Butler buildings, or whatever. In facilities I am sure we could design that would cost maybe one-fourth or one-fifth as much. And for the same amount of money we could incarcerate

maybe four or five times the number of people.

Madam President, there are other things in this GAO report. I will not try and cover every point made in this GAO report. Here are some other pictures of some of the gym facilities, the equipment, and the bunk rooms. I will tell you, the people in the military would have dearly loved to have lived in anything this posh or have had access to these recreation facilities. I am not against having good facilities, but I think where we talk about crime as being a crisis in this country, then I think we ought to treat it as a crisis.

"Bureau of Prisons Cost Cutting Proposals." They have some proposals, but they have a rather narrow scope.

The Bureau of Prisons convened an Administration Wardens' Advisory Group to identify and consider several options aimed at reducing construction costs for medium security prisons. In December 1990, the BOP executive staff considered the following 12 options developed by the wardens advisory group:

One, utilize inmate labor to construct staff training centers. I do not disagree with using inmate labor to construct their own buildings. I know from personal experience that one person can read the construction sheet for a Quonset hut and a half-dozen people can put one up in 3 or 4 days' time. I have done it. It is not something that is impossible to do. I hold no stock in the Guonset company.

The point I am making is that this kind of construction is something that we could use instead of the big brick and mortar structures that cost hundreds and hundreds and millions of dollars. So in regard to the recommendation to utilize inmate labor to construct facilities, I agree with that.

Two, they propose deleting construction of gymnasiums at satellite camps. I see no problem with that at all. I agree with them on that absolutely. If we want to have people get some exercise at some of these camps, what on Earth is wrong with having them run around the perimeter of the camp like people in the military have done for the last 50 years? They can get plenty of exercise—build a ball diamond, build their own huts, their own recreation facilities. What on Earth iswrong with that? What is wrong with them growing some of their own food? I do not see anything wrong with it at all.

Three, reduce programmed square footage in the following support areas: outside and inside warehouses, maintenance shop, recreation, commissary, and laundry. As far as square footage goes, low-cost facilities like Guonset huts are cheap enough to construct that I would guarantee you we could exceed the per-square-foot requirement that they put out for each prisoner. That is no problem at all. We would have plenty of space for each person, far more than we are ever going to be able to afford in the big brick and mortar construction.

Four, replace sloping roofs with flat roofs or, at a minimum, utilize composition shingles on sloped roofs. That is something that was supposed to start saving some money, I suppose. If we cannot do better by using something like these little models beside me, I would be surprised.

Five, delete landscaping and irrigation beyond basic seeding and make landscaping inmate labor intensive. I agree with that.

Six, although an actual savings would not be realized, certain equipment items could be paid from other funds.

Seven, reduce the quality of exterior walls and insulation.

Eight, delete indoor "active recreation," such as weight lifting and gymnasiums; make open-air recreation available. Boy, do I ever agree with that. What is wrong with people getting outside and building their own ball diamond? What is wrong with getting outside and making their own basketball court? What is wrong with getting outside and doing push-ups, putting cinder blocks on the end of a pipe and do bench presses if they want to, as I used to see people in the military doing all the time—and they enjoyed it.

What is wrong with focusing not on how much we can spend for prisoners but what we can do without—the minimum facilities that we can get by with for the nonviolent prisoners.

Well, several of these recommendations go on. But out of all of these recommendations, nowhere are low-cost structures considered. These were some of the recommendations of the administration-wardens advisory group.

Now, is there any wonder that the wardens do not particularly want low-cost construction? If you are a warden out there, you would love to preside over a great big Federal penitentiary with its big glass windows and its great big brick walls and nice driveways. Facilities that can cost between $50,000 and $100,000 per prisoner. Now, sure, if you were a warden, I am certain that you would much prefer to preside over that. In your office, you can sit at your window overlooking your marble palace.

But if we are trying to incarcerate criminals who are terrorizing our society, and we call this a crisis and we all get up and we beat our breasts here on the Senate floor and make our press releases talking about what a crisis this is for America, then we should be concerned about locking these people up. Half of them are nonviolent prisoners who should be serving time and who are now in a revolving door where they just go in and out, get a slap on the wrist and they are out again, and in again and out again. It does, indeed, mean something if you have a prison sentence awaiting you.

Let my give you one little example of this. Almost 2 years ago, I chaired a hearing of the Governmental Affairs Committee. The hearing involved some of the problems of apprehension of drug offenders here in the District. Without going into a lot of detail on it, we had two young people in from the Mayor's task force in Washington who were working to keep the kids out of drugs. They were both in their very early twenties. One of them had grown up out here in an area infested with drugs which is in the paper a lot these days for murders and other crimes. The first one had not been in any trouble. He stayed out of trouble. He wanted to be part of the Mayor's task force. The second one was a young man, I think he was 23, and he had been in trouble. He had been to prison. He had been selling drugs and he got caught.

I asked him when he started selling drugs—he was just hustling drugs himself—how much was he making? And he said, "Oh, about 60 bucks a day." I said, "Well, but you had some people working for you." He said, "Yeah, I wound up with 24 mules working for me." And I said, "How much did you make then?" And as I recall I think he said, "$350,000." And I said, "Over what time?" I think the figure was 5 months. And I said, "Well, why did you get into this to begin with." "Well," he said, "the other kids had a car and they had good clothes and I wanted that, so I got into it that way."

He said, "I knew there was some danger in it, but everybody always said we make a lot of money and then occasionally go to prison but its a piece of cake. It's no problem. It's almost like living at home," words to that effect. "There is no problem with it. So you can do your time and get out and you will get out pretty quick anyway."

And then I said, "Well, is that the way you found it?" "No, sir, Senator." That was not the way he found it. He did not like jail. He did not like to be locked up. He did not like to be away from his home area. And so he hated that lockup so much that he was now part of the Mayor's task force working with other young people in Washington, DC to try and prevent the spread of drugs and the sale of drugs.

Now, going to jail and the certainty of a sentence is not something that is a piece of cake, as he had been told. He did not like to have his freedom taken away from him. He did not like any of that. He hated it so much that he has now signed up to help prevent other kids from getting involved in that same sort of thing.

So going to jail does have an effect, it does have an impact. But justice should be served swiftly, fairly, and with a sentence carried out immediately at the end of it, if it is to mean anything.

I would say as far as the nonviolent prisoners go—let me just repeat that—

the nonviolent prisoners can be incarcerated in facilities that are not the big slammers, not the $50,000 per cell unit. They can be done at a fraction of that cost with lesser facilities, and I think that is what we should be doing.

For the first offender who may be at the beginning of a life of crime, if they receive a sentence right then, maybe it will stop them. But they get the idea that, hey, this is a piece of cake; we can roll this over. No problem. I will just take my chance out here. I will grab that old woman's purse, and I will not go to jail anyway. Street crime, whatever crime, white collar crime, you name it. What happens out on our highways? Do we lock people up that should be locked up for drunk driving repeat offenses? No, we do not.

So we are not just talking about murders here. We are talking about the people who are just scofflaws that are not locked up at the State level because they do not have the facilities in which to put them.

We have about 40,000 to 50,000 deaths, incidentally, to follow up on that, on our highways every year. It varies up and down a little bit. Half of those fatalities on the highway—half of them—are from drunk driving. We thought it was a tragedy that in the Vietnam war we killed 58,000 people over a 10-year period. Every 2½ years we kill as many people in this United States just from drunk driving as we did in 10 years of the Vietnam war. And yet we laugh it off—oh, yeah, you were just drunk; you had a few beers.

That is fine until you come up against the thing I mentioned a little while ago. The fellow in Florida who had 24 arrests for drunk driving and nothing happened, basically, and he is out then driving down the road, goes across the median, rams into a car and kills some people. He should have been locked up a long time ago, so he would have known that the consequences of drunk driving are not something that you wave off and just say, "Well, it is not important, ho, ho, ho." Yes, "ho, ho, ho," unless you have a family member who is a victim of something like that.

This crime bill, the Biden crime bill, has some very major provisions to it, and I support the bill. Community policing, we are going up to 100,000 police initially. I support that. So this vigil of having police out there on the corner does work. It will make for a little less crime over a period of time. It is not going to work by itself unless people know if they are apprehended they are going to absolutely and certainly go through that criminal justice system and wind up in jail. They are going to do their time. So that is a requirement for more jails.

State and local law enforcement is covered in this bill. It supports police, corrections, drug treatment, authorizes money for military-style boot camps for nonviolent offenders, trying to get them while they are young, which I support. All of this requires more prison space. It authorizes drug court programs; it requires testing, treatment, alternative punishments; and expands the death penalty.

The death penalty—many people in the Senate love to hang their hats on the death penalty. We are making the largest ever expansion of the Federal death penalty—50 new death penalty offenses. It sounds as if we are really getting tough on this, except over the last 20 years there have been 40 documented cases where mistakes have been made in this area. I know of no study which says that the death penalty really is effective in creating less violent crime deaths in the future. It turns out most studies show these are not crimes where someone sat down and said, "You know, I am going to go out and get so and so."

Most of them are crimes of passion, spur-of-the-moment type things.

There are over 60 penalty increases in new offenses primarily covering violent crime, drug trafficking, gun crimes, enhanced penalties for, among other crimes, the use of semiautomatic gun possession by convicted criminals dealing in drug zones. That is a whole section on increased penalties.

Where are we going to put these offenders once we have these increased penalties meted out? There is no place that I know of. Increased penalties for sexual violence, child abuse—all of these are very laudable provisions of this legislation. But at the end of the process, there is no place to put the offenders, no place to lock up the criminals.

Fifty percent of the criminals that are apprehended and go through our system are judged to be nonviolent. We do not need the big slammers. We do not need the dragnet-type door closed with all the sound effects. We do not need all of that for the nonviolent prisoners.

What we do need is the cheapest possible incarceration per prisoner we can get for those prisoners. I am not trying to be inhumane. But I am trying to say we should be treating those people no better than millions upon millions of military personnel in this country have been treated, living in, whether it is Quonset huts, Butler buildings, converted warehouses, or whatever. But let us see if we cannot arrange for the lowest cost incarceration instead of blowing the money provided in this bill on big, new, brick and mortar, in effect, palaces for people who are convicted criminals.

Mr. President, I send to the desk an amendment that seeks to ensure this goal. I believe it has been accepted on both sides. I want to speak just briefly about it and then summarize my statement today. We are talking about a lot of money in this bill. I am trying to make sure it gets spent wisely, deters crime, and punishes criminals to the maximum extent per dollar spent.

In the legislation before us, we are increasing the number of police. I favor that. We have a judicial system in this country that gives people their fair day in court, and, if convicted, gives them a sentence. I favor beefing that up. But I submit that not with this bill, and not with any other bills like this, are we going to really have an appropriate punishment at the end of that judicial process unless we do a lot more than we are doing now.

I talked a couple of years ago to our Governor and Lieutenant Governor about the idea of low-cost prison construction after I made my trip around Ohio. They agreed basically we should be going to something like this.

So what this amendment does, Mr. President, is it calls on the Attorney General to encourage innovations and cost-saving methods in making grants to States and localities under this bill. We are talking about cost savings in a lot of areas. One of them is administrative spending. We can do better in streamlining operations, increasing automation, providing for more cooperative ventures, and reducing the cost of overhead administration.

We are talking about putting a lot of police officers on the street. We can compound this effect by encouraging more community policing; also making neighborhoods partners in providing for security in their communities.

Another issue that Senator DORGAN spoke to me about recently and I certainly support increasing our criminal debt collection efforts. It is estimated that of the fines assessed against criminals, only 5 to 10 percent get collected. Maybe they do not have much money or they would not be out there committing whatever crime it is. But it is estimated that over $1 billion is owed in this area. And I am certain that more of that could be collected if we went after it. Why should they not be required to pay back the people that they have wronged, if at all possible? I agree with that. Senator DORGAN deserves a lot of credit for the work he has done in this particular area.

Certainly we can do better in providing facilities for nonviolent offenders at a lesser cost than we have been doing. We do not need Cadillac prisons. We do not need marble palaces for these offenders. We need practical solutions to help alleviate a very serious crisis that faces America. We all get up and say crime is a crisis in this country. If it is a crisis, let us treat it that way. If it is a crisis, let us say we are going to put people behind bars who need to be behind bars—or behind secure fences. They do indeed lose their freedom if they have been judged as the type people in our society who do not have any claim to being out in the open as long as they are committing

the kind of crimes that they are committing.

We say it is a crisis. But it is a crisis which forces judges and prison officials to play a sort of a Russian roulette, if you will, or a family attack roulette, in allocating prison space, making impossible choices on who to keep locked up and who to let go.

I already spoke about the situation in Ohio where prisons now house 41,121 people, and that is 18,258 inmates over capacity and growing. Some facilities in Ohio, like the Lorain Correctional Institution, are more than 200 percent of capacity.

I only hope that the action we took last week in the extraordinary effort of Senator BYRD—I commend him for this—the chairman, and the ranking minority member, will alleviate this situation. And I have worked closely with my friend and colleague, Senator DORGAN from North Dakota, on efforts to increase prison space for the nonviolent prisoners.

We do not want to just make more space. We want to add it in the most cost-effective manner possible. We do not need to be building $50,000-a-bed prisons for drunk drivers and nonviolent drug offenders.

It is my hope that this amendment will result in greater use of low-cost alternative forms of housing other than marble palaces. I think most people across this country would be supporting of that.

These models were sent to me by Mr. Rudler. I did not ask for them. I do not know him personally. He heard some of my remarks on the floor a few years ago. He sent the first one. A few days ago this model arrived, a little model of a Quonset hut, a shortened version.

It shows that it can be quite an attractive place. I was accused by one of the staff a little while ago of trying to put mailboxes on the Senate floor, which I am not exactly doing. But what I am doing is saying that this is a model of a Quonset hut; it could just as well be a Butler building; but it is low-cost space and can be built very cheaply compared to what we spend in price for prisons right now.

To those who say this type of alternative is too harsh, that it would provide prisoners with a spartan existence, I would make two points:

First, millions of military personnel have lived in Quonset huts—and I spent a significant part of my life in Quonset huts. Two different times my wife, our children, and I lived in half of a standard Quonset hut. We did not feel too set upon. We lived quite reasonably well there. Would I have preferred a big permanent home someplace on a base? Yes; sure I would have. But it was not all that bad. The accommodations were OK. We lived through one winter, a cold winter, in a Quonset hut. It was not all that bad. We lived through a summer without an air-conditioner. We might break out in a sweat. Wouldn't that be too bad if a prisoner had to break out in a sweat?

Quonset huts are used by the military families in the tropics to the Arctic. If it is good enough to house our military people serving the country, I think it would be considered good enough for convicted criminals. They might not offer plush accommodations, but a spartan environment is not going to particularly hurt anybody.

The Warden's Association did not recommend low-cost facilities. No wonder. They, like any other administrator, would like to preside over a great campus-like environment that looks much better. I do not quarrel with that. I am interested in seeing convicted criminals get locked up. I do not say this would be the answer for housing all prisoners, but at the very least they provide an overflow relief valve. Not all prisoners need to be in a high-security environment, but they should be incarcerated.

Housing them in Quonset huts or other prefab housing accomplishes two important things: It ensures that all offenders, regardless of their offense, serve their time. No. 2, it frees up space in the big brick and mortar facilities for violent criminals to serve a greater percentage of their terms.

We have a number of States currently using some prefab housing to alleviate their prison overcrowding problems. As I mentioned, one State that utilized the Quonset hut approach is Arizona. In 1984, the Arizona State Prison faced a severe overcrowding crisis, and they came up in what was looked at as an ingenious solution. They got a hold of enough Army surplus material for 100 Quonset huts, formed prisoner work crews to put them up, and lo and behold, the prison was no longer overcrowded. Imagine that. They did it at a low cost, and they did it quickly. Just as important, they did it themselves.

A hammer in a man's hand, I feel, can be a real character builder. And so can a hoe. I would have prisoners grow their own food and have them learn that food does not all come out of a fast food drive-through window, that tomatoes grow on vines, that peas have pods, and that corn can grow in as little as 90 days. They might learn something. They can eat their own food and can some of it, as we did when I was a kid in New Concord, OH. Crazy idea? I do not think it is. And neither are Quonset huts or Butler buildings, or other types of low-cost facilities. They can mean a very significant cost savings.

Our overcrowded prisons are sending a clear message to criminals. Do you know what society does? It talks like Rambo and acts like Bambi. That is what we do here on the Senate floor—talk like Rambo and act like Bambi when it comes to doing what has to be done in providing punishment to criminals who were sentenced in the criminal justice system. We say we did not really mean it after all. It might cost a little bit, but it need not cost as much as we have been led to believe.

A career of crime carries with it little or no risk of serving time in too many cases. We need to help States build low-cost alternatives to brick and mortar prisons so the revolving door criminals are not back on the street to repeat the crimes, being picked up again and going through the system, and once again finding no place to punish them at the end of that process.

We can make sure there is always a vacancy at the local jail or State prison. A "no vacancy" situation can no longer be an excuse for the absence of justice.

Mr. President, it is my understanding from the floor managers of the bill that they are prepared to accept this amendment.

The PRESIDING OFFICER. Will the Senator send his amendment to the desk?

AMENDMENT NO. 1127

(Purpose: To promote efficiency in law enforcement and corrections)

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

The PRESIDING OFFICER (Mr. LIEBERMAN). The clerk will report.

The bill clerk read as follows:

The Senator from Ohio [Mr. GLENN], for himself, Mr. HELMS, Mr. DORGAN, and Mr. KERRY, proposes an amendment numbered 1127.

Mr. GLENN. 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 447, after line 23, add the following:

SEC. . EFFICIENCY IN LAW ENFORCEMENT AND CORRECTIONS.

(a) IN GENERAL.—In the administration of each grant program funded by appropriations authorized by this Act or by an amendment made by this Act, the Attorney General shall—

(1) encourage innovative methods for the low-cost construction of facilities to be constructed, converted, or expanded and the low-cost operation of such facilities and the reduction of administrative costs and overhead expenses; and

(2) give priority to the use of surplus Federal property.

(b) ASSESSMENT OF CONSTRUCTION COMPONENTS AND DESIGNS.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall make an assessment of the cost efficiency and utility of using modular, prefabricated, precast, and pre-engineered construction components and designs for housing nonviolent criminals.

(c) SENSE OF CONGRESS.—It is the sense of the Congress that in providing assistance to State and local governments, the Attorney General should emphasize the provision of technical assistance in implementing methods to promote cost efficiency and realization of savings.

Mr. HATCH. Mr. President, it is my understanding, on behalf of both floor managers, that this amendment is acceptable and we would like to have it in the bill. We commend the Senator for his articulate explanation of it and for the amendment itself.

Mr. HELMS. Mr. President, I ask the Senator from Ohio to add my name as a cosponsor of the amendment.

Mr. GLENN. I would be happy to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1127) was agreed to.

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

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

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 1126, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the amendment (No. 1126), as modified, of the Senator from Mississippi [Mr. LOTT].

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

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arizona [Mr. DECONCINI], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Alabama [Mr. SHELBY] are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona [Mr. DECONCINI] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE], the Senator from Georgia [Mr. COVERDELL], and the Senator from Vermont [Mr. JEFFORDS] are necessarily absent.

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

The result was announced—yeas 91, nays 1, as follows:

[Rollcall Vote No. 357 Leg.]

YEAS—91

Akaka	Daschle	Inouye
Baucus	Dodd	Johnston
Bennett	Dole	Kassebaum
Biden	Domenici	Kempthorne
Bingaman	Dorgan	Kerrey
Bond	Durenberger	Kerry
Boren	Exon	Kohl
Boxer	Faircloth	Lautenberg
Bradley	Feingold	Leahy
Breaux	Feinstein	Levin
Brown	Ford	Lieberman
Bryan	Glenn	Lott
Bumpers	Gorton	Lugar
Burns	Graham	Mack
Byrd	Gramm	Mathews
Campbell	Grassley	McCain
Coats	Gregg	McConnell
Cochran	Harkin	Mikulski
Cohen	Hatch	Mitchell
Conrad	Hatfield	Moseley-Braun
Craig	Heflin	Moynihan
D'Amato	Helms	Murkowski
Danforth	Hutchison	Murray
Nickles	Rockefeller	Stevens
Nunn	Roth	Thurmond
Pell	Sarbanes	Wallop
Pressler	Sasser	Warner
Pryor	Simon	Wellstone
Reid	Simpson	Wofford
Riegle	Smith	
Robb	Specter	

NAYS—1

Packwood

NOT VOTING—8

Chafee	Hollings	Metzenbaum
Coverdell	Jeffords	Shelby
DeConcini	Kennedy	

So the amendment (No. 1126), as modified, was agreed to.

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

The PRESIDING OFFICER (Mr. LIEBERMAN). Is there a motion to lay on the table?

Mr. GLENN. May we have order, please?

The PRESIDING OFFICER. The Senate is not in order.

There is a motion to reconsider.

Mr. BIDEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Chair now recognizes the Senator from North Carolina [Mr. HELMS].

Mr. HELMS. I thank the Chair. In a moment I shall call up an unprinted amendment which is at the desk. But, first, I will make a few comments.

The amendment which I shall shortly call up will put an end to killers, and others who have been incarcerated after having been declared insane, from collecting millions of dollars in Social Security disability benefits. If this amendment sounds familiar to Senators, it is because 94 U.S. Senators voted for this very amendment on September 29, 4 Senators voted against it, and 2 Senators were absent. Notwithstanding that overwhelming vote, when the bill went to conference with the House, the Senate conferees were not very anxious to defend any Senate amendment, and this very sensible amendment was dropped. There has been an outcry from all across the country because of the action of the conference committee, and that is why I am here to submit, in just a moment, this amendment.

Mr. President, I ask unanimous consent that the rollcall vote on September 29 be printed in the RECORD at this point.

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

[Rollcall Vote No. 294 Leg.]

YEAS—94

Akaka, Baucus, Bennett, Bingaman, Bond, Boren, Boxer, Bradley, Breaux, Brown, Bryan, Bumpers, Burns, Byrd, Campbell, Chafee, Coats, Cochran, Cohen, Conrad, Coverdell, Craig, D'Amato, Danforth, Daschle, DeConcini, Dodd, Dole, Dorgan, Durenberger, Exon, Faircloth, Feingold, Feinstein, Ford, Glenn, Gorton, Graham, Gramm, Grassley, Gregg, Harkin, Hatch, Hatfield, Heflin, Helms, Hollings, Hutchison, Jeffords, Johnston, Kassebaum, Kempthorne, Kennedy, Kerrey, Kerry, Kohl, Lautenberg, Leahy, Levin, Lieberman, Lott, Lugar, Mack, Mathews.

McCain, McConnell, Metzenbaum, Mikulski, Mitchell, Moseley-Braun, Moynihan, Murkowski, Murray, Nickles, Nunn, Packwood, Pell, Pressler, Reid, Riegle, Robb, Rockefeller, Roth, Sarbanes, Sasser, Shelby, Simpson, Smith, Specter, Stevens, Thurmond, Wallop, Warner, Wofford.

NAYS—4

Domenici, Inouye, Simon, Wellstone.

NOT VOTING—2

Biden, Pryor.

So the amendment (No. 976) was agreed to.

AMENDMENT NO. 1128

(Purpose: To prohibit Social Security disability payments to individuals confined to public institutions pursuant to court order based on a verdict that the individual is guilty, but insane or not guilty by reason of insanity or similar finding)

Mr. HELMS. Mr. President, I have an unprinted amendment at the desk for which I ask its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1128.

Mr. HELMS. 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:

To be added at the end of the bill:

"SEC. . RESTRICTION ON PAYMENT OF BENEFITS TO INDIVIDUALS CONFINED BY COURT ORDER TO PUBLIC INSTITUTIONS PURSUANT TO VERDICTS OF NOT GUILTY BY REASON OF INSANITY OR OTHER MENTAL DISORDER.

Section 202(x) of the Social Security Act (42 U.S.C. 402(x)) is amended—

(1) in the heading, by inserting "and Certain Other Inmates of Public Institutions" after "Prisoners":

(2) in paragraph (1) add "(A)" after (1)

(3) in paragraph (1), by inserting at the end: (B) Notwithstanding any other provision of this subchapter, no monthly benefits shall be paid under this section or under section 423 of this title to any individual for any month during which such individual is confined in any public institution by a court order pursuant to a verdict that the individual is not guilty of such an offense by reason of insanity (or by reason of a similar finding, such as a mental disease, a mental defect, or mental incompetence), unless the payment is made directly to the public institution to compensate the institution for its expenses."

(4) in paragraph (3), by striking "any individual" and all that follows and inserting "any individual confined as described in paragraph (1) if the jail, prison, penal institution, correctional facility, or other public institution to which such individual is so confined is under the jurisdiction of such agency and the Secretary requires such information to carry out the provisions of this section.".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall apply with respect to benefits for months

commencing after 90 days after the date of the enactment of this Act.

The PRESIDING OFFICER. Under the previous agreement, there are 15 minutes allocated for debate on this amendment, divided in the customary manner.

Mr. HELMS. Mr. President, I offered this amendment, as I stated a moment ago, to the Labor-HHS appropriations bill and, as I also mentioned earlier, the Senate approved it 94 to 4. But when the bill went to conference, it was dropped by the House conferees, and the Senate conferees did little or nothing to defend this sensible and necessary amendment.

So it had been overwhelmingly approved by the Senate. Among other things, this may illustrate the difficulty in cutting Federal spending and reducing the Federal deficit. Congress so often talks a good game, but does so little, so often, really to cut Federal spending.

There is a distinguished gentleman in the House of Representatives, ANDY JACOBS of Indiana, who has introduced an amendment almost identical to mine in the House. Mr. JACOBS was the author of successful legislation some years ago to forbid convicted felons from receiving Social Security payments. So he and I have been on the same wavelength all the way.

I spoke to ANDY JACOBS over the weekend. I called him in Indiana. When I apologized for intruding on his afternoon, he replied, "I appreciate it, because my wife had me out raking leaves." We discussed this legislation. He said, "Please do offer it, and I support it fully."

So he urged me to proceed with it, and here I am proceeding with it.

How did all this begin as far as JESSE HELMS is concerned? Back in September, a very fine constituent in Raleigh, NC, John Sisson, wrote to me. Let me read his letter.

DEAR SENATOR HELMS: The old saying, "Crime doesn't pay" is no longer true, and I hope you will do all you can to reverse this trend.

On September 21, "The News and Observer" in Raleigh carried a headline on page 3A which read "Insane Killer's Federal Checks Challenged." The article reports on Michael Charles Hayes who is incarcerated for killing four people in Winston-Salem, NC. Mr. Hayes receives $536 a month from Social Security while he is incarcerated because he is "disabled."

He is classified "disabled" by reason of insanity, Mr. President. But let me proceed with Mr. Sisson's letter. He says:

While incarcerated in Dorothy Dix Hospital he has purchased a motorcycle, two leather jackets worth $300 apiece, a wardrobe of 40 knit shirts and television sets and VCR's.

Mr. Sisson says:

Here is a loophole which should be immediately stopped. * * * Please do what you can.

Stop Mr. Hayes' payments.

Close the deficit spending by removing disability pay for all who are criminally insane and incarcerated.

Thank you for listening. Above all, we must reduce the deficit spending.

Sincerely,

JOHN W. SISSON, Jr.

Mr. President, let me outline specifically what happened in this case. Five years ago in Winston-Salem a man named Michael Hayes fired into several cars as they passed by. He shot nine people, four of whom died. They were killed in cold blood. Hayes was found to be insane by the courts and sentenced to a mental institution where he promptly filed for Social Security disability benefits. And what do you know? He got them.

Mr. President, Hayes, as I said earlier, now collects $536 a month of the taxpayers' money sent to him by the Federal Government that has no choice about it unless this Senate and the House of Representatives and the President act.

According to the father of one of the four victims who were killed, Hayes is living in hog heaven. I think Mr. Nicholson, the father with whom we have been in contact, gave the best description of this injustice when he appeared before a House subcommittee several weeks ago.

Let me quote.

The inventory of Hayes' personal property filled nine pages with 20 items on each sheet, necessitating that the hospital provide him with additional storage space for all the things he was able to buy with that $536 a month.

Still quoting.

He had four jackets, two full-length leather coats, all purchased with the Social Security disability benefits * * * two television sets, two VCR's, an elaborate stereo * * * microwave oven, and walkie-talkies, with which he and his girl friend, a fellow patient, communicated during the day.

That is the information supplied by Mr. Nicholson.

Mr. President, this did not happen just in North Carolina. It is happening all across the Nation. For example, in New Jersey a man named Herbert Olsen tried to kill his parents; he was found to be insane, and he has collected $8,646 in retroactive disability payments and then began receiving $678 a month thereafter. Then he escaped and went to New York to buy drugs, subsidized by you know whom—the taxpayers of the United States.

Mr. President, as Congressman JACOBS has said, as so many of us have said, Social Security disability payments are intended to provide food and shelter for the disabled. Inmates of mental institutions are already receiving food and shelter, and they should not be allowed to double dip into the pockets ofthe taxpayers.

Mr. President, the law already prohibits such payments to convicted felons in prison. This amendment merely expands the current law and will save the taxpayers at least $10 million a year, perhaps more than that.

Since managers of the bill, Mr. BIDEN and Mr. HATCH, have agreed to accept this amendment, I shall not ask for a rollcall vote because the Senate has already had a rollcall vote, taken back in September. But I do seek assurance from the managers of the bill that, this time, the Senate conferees will stand up for this and other worthwhile amendments, including the Glenn amendment which has just been discussed.

With that understanding and with that assurance from Senator HATCH, who is on the floor, I will yield the floor when the Senator gives me that assurance.

Mr. President, I ask that this time not be charged against my 7½ minutes.

The PRESIDING OFFICER. The time allotted to the Senator from North Carolina has just expired.

Mr. HELMS. Pardon me.

The PRESIDING OFFICER. The time allotted to the Senator from North Carolina has just expired.

Mr. HELMS. I ask unanimous consent that my time be extended by 5 minutes, which I will not use if and when I will get an affirmative response to my inquiry.

Mr. HATCH. Does the Senator yield?

Mr. HELMS. Let the Chair rule on my unanimous-consent request for 5 minutes, please.

The PRESIDING OFFICER. The Chair advises the Senate the Senator from North Carolina propounded a unanimous-consent request that his time be extended 5 minutes.

Is there objection?

Without objection, it is so ordered.

Mr. HATCH. I understand the Senator has a question for me.

Mr. HELMS. I thank the Chair.

I certainly will yield to my friend from Utah.

Mr. HATCH. Mr. President, it is my understanding the Senator would like assurance we will fight for this provision in conference. I intend to do so. I intend to do the best I can for him. I am hopeful there might be a conference and we might be able to pass the bill in good form, that the President and everybody else will support it.

Mr. HELMS. Very well, I thank the Senator.

With that assurance, Mr. President, I yield back the remainder of the 5 minutes, and I ask we proceed with the vote.

The PRESIDING OFFICER. Is all time yielded back?

Does the Senator from North Carolina yield back his remaining time?

Mr. HATCH. I yield back our time as well.

The PRESIDING OFFICER. All time having been yielded back, the question occurs on the amendment offered by the Senator from North Carolina.

The amendment (No. 1128) is agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. HELMS. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina [Mr. THURMOND].

AMENDMENT NO. 1129

(Purpose: To amend section 1201 of title 18, United States Code, to provide for a definition of the term "parent")

Mr. THURMOND. Mr. President, I send an amendment to the desk on behalf of myself, Senator METZENBAUM, Senator DOLE, Senator SIMPSON, Senator NICKLES, Senator KENNEDY, Senator HATCH, Senator HELMS, Senator CRAIG, and Senator KEMPTHORNE.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for himself, Mr. METZENBAUM, Mr. DOLE, Mr. SIMPSON, Mr. NICKLES, Mr. KENNEDY, Mr. HATCH, Mr. HELMS, Mr. CRAIG, and Mr. KEMPTHORNE proposes an amendment numbered 1129.

Mr. THURMOND. 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 appropriate place in the bill add the following:

SEC. . DEFINITION.

Section 1201 of title 18, United States Code, is amended by adding at the end thereof the following:

"(h) As used in this section, the term 'parent' does not include any person whose parental rights as to the victim of an offense under this section have been terminated by a final court order."

Mr. THURMOND. Mr. President, this proposal addresses the interpretation of the Federal Kidnaping Act by the fourth circuit in U.S. versus Sheek.

The Federal Kidnaping Act, often referred to as the Lindbergh Act, was adopted by the Congress soon after the high profile kidnaping of the Lindbergh baby. This act makes criminal the interstate kidnaping "for ransom or reward or otherwise." However, the act exempted kidnaping of a minor by the parent thereof.

The Sheek decision involved the abduction of two children from a couple in South Carolina who were licensed foster parents pursuing adoption of the children. In November of 1987, the South Carolina Department of Social Services had removed the children from the custody of their biological mother and placed them in the care of the foster parents. In November of 1989, a South Carolina family court issued an order wherein the parental rights of the biological mother were permanently terminated. In the language of the family court, "The Parental Rights of Grace Clark (Sheek) * * * to Amanda York and Michael York are hereby terminated, henceforth and forever." The family court had found evidence relating to physical abuse and neglect of both children. The court further found that the mother had made no effort to maintain a bond with her children after they were placed in foster care. Further, at the time of final hearing, the mother was incarcerated in Florence, SC.

Later, the mother moved to Missouri and remarried. In August of 1991, she returned to South Carolina with friends where they tied up the prospective adoptive parents, robbed them of over $5,000 in cash and abducted the children. The biological mother then took the children to Missouri, crossing State lines and thereby triggering the Lindbergh Act. The mother and the others who accompanied her were arrested in Missouri. The mother was charged under the Lindbergh Act and a Federal firearms statute.

The mother, Mrs. Sheek, moved to dismiss the courts under the Lindbergh Act upon the grounds that she was exempted from liability by virtue of her status as a parent of the two children. As I stated earlier, the Lindbergh Act criminalizes kidnaping but exempts kidnaping of a minor by the parent thereof. The Federal district court dismissed the courts applicable to Mrs. Sheek because of the parental exemption under the Lindbergh Act. The United States appealed. On appeal the fourth circuit upheld the dismissal and ruled that the law does not apply to biological parents, even if their parental rights have been terminated.

Mr. President, this ruling is understandable under the plain language of the statute when given its ordinary meaning. Our amendment today will clarify the parental exemption under the Lindbergh Act. It denies exemption to parents under the Lindbergh Act where that parent has had parental rights finally terminated by a final court order. I believe individuals should not be exempt from Federal kidnaping charges where their parental rights as to the victim have been terminated by a final court order. Taking the Sheek decision to its logical conclusion, it would protect a biological parent from kidnaping charges even if they had abducted the child from an adoptive home after final adoption. Surely this is not the protection Congress sought to establish when the Lindbergh Act was enacted. Our amendment corrects this inconsistency and I urge my colleagues to support its passage.

Incidently, Mr. President, the Senate may be interested to know that Mrs. Sheek is currently serving time on State charges of abduction and two of her accomplices are serving time on Federal charges in relation to the abduction.

The National Council for Adoption supports this amendment. I understand the Justice Department has signed off on it, so I presume they support it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Is there further debate?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Mr. President, I am happy to join with my colleague from South Carolina in sponsoring this amendment. It is my understanding that Senators DOLE and KENNEDY are also cosponsors of it. I believe it to be a good amendment to the Federal Kidnaping Act.

Just imagine that you are a parent living in a loving home with your adoptive child. Then your adoptive child is kidnaped by his or her birth parents. Next assume that Government officials capture the wrongdoers and want to bring Federal kidnaping charges.

Can you imagine your shock and dismay to learn that the current Federal kidnaping law exempts parents from prosecution?

You are the adoptive parents, you are the ones that have brought up the child, you are the ones that have legal rights under the law and the natural parents come along and kidnap the child.

But the fact is, it is true. Parents who kidnap their children cannot be prosecuted for violating Federal kidnaping laws, even when their parental rights have been terminated by a final court order.

Just this March, the U.S. court of appeals for the fourth circuit upheld the dismissal of three counts of Federal kidnaping against a defendant because she was the parent of the victim. In that case, the defendant was a birth mother who had her parental rights permanently terminated. Although the defendant abducted her birth children while armed with a handgun, Federal kidnaping charges were dismissed solely because the defendant was the parent of the victim.

The amendment that we are offering today, would correct this unjust situation. I believe that at the time the Federal kidnaping statute was originally enacted no one could conceive that a parent would kidnap their own child. The original act also exempted parents from liability in an attempt to avoid the law from being used in custody battles among parents and other family members. Such matters may be better handled on the State level.

This amendment would only affect those parents who kidnap their child and have had their parental rights terminated by a final court order. Our

amendment makes it clear that persons whose parental rights have been terminated by final court order are not immune to Federal prosecution for kidnaping when they criminally abduct their child. It does not interject the Federal Government into custody matters where parents either have joint custody or one parent has custody and the other parent has visitation rights.

This commonsense amendment is truly a bipartisan effort. I urge my colleagues to support it.

Mr. SIMPSON. Mr. President, I am pleased to cosponsor this amendment.

This amendment closes an unintended loophole in the Lindburgh Act which has allowed great injustice to occur.

While the incidents of individuals taking advantage of this loophole are rare, the consequences to families and innocent children are so very severe that we must, in my opinion, enact this amendment into law as soon as possible.

It is truly unfortunate that an individual whose parental rights have been terminated, the child placed into adoption into a loving and sustaining home, can carry out a kidnaping simply because of a unique exception to the definition of kidnaping that would allow this bizarre result to occur.

I understand that this amendment will be accepted and I simply thank my colleagues for their support. I would congratulate my fine friend Senator THURMOND for his leadership and prompt action. He is a very special legislator.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I think this is a very good amendment. As a matter of fact, I can almost, without reservation, say that anytime the distinguished Senator from Ohio and the distinguished Senator from South Carolina—Senators METZENBAUM and THURMOND—agree on anything, who could be against it?

Mr. METZENBAUM. There are 168 years of wisdom contained in the amendment.

Mr. BIDEN. As the Senator from Ohio just pointed out, he said, there are 168 years of wisdom contained in this amendment. I certainly shall not stand in the way of that wisdom.

We accept the amendment on this side.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I have just the exact opposite reaction. I am a cosponsor of this and now that the distinguished Senator from Ohio is on it, I am starting to worry about my cosponsorship.

But I accept it, too. I think these two grand veterans of the Senate both approach these matters very seriously. I respect both of them, and I respect this amendment and, of course, will support it here on the floor.

The PRESIDING OFFICER. Is there further debate?

Mr. THURMOND. Mr. President, I wonder if the able chairman of the Judiciary Committee would like to be added as a cosponsor?

Mr. BIDEN. I would be delighted.

Mr. THURMOND. Mr. President, I ask unanimous consent that his name be added.

The PRESIDING OFFICER. Without objection, the Senator from Delaware will be added as a cosponsor.

Is there further debate?

Hearing no further debate, the question is on agreeing to the amendment.

The amendment (No. 1129) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1130

(Purpose: To strike provisions repealing minimum mandatory sentencing, and to provide for increased minimum mandatory sentencing)

Mr. GRAMM. 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 Texas [Mr. GRAMM] proposes an amendment numbered 1130.

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

The PRESIDING OFFICER (Mrs. MURRAY). Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 399, strike line 13 and all that follows through the period on line 11, page 404; and insert in lieu thereof the following:

SEC. . INCREASED MANDATORY MINIMUM SENTENCES FOR CRIMINALS USING FIREARMS.

Section 924(c)(1) of title 18, United States Code, is amended by inserting after the first sentence the following: "Except to the extent a greater minimum sentence is otherwise provided by the preceding sentence or by any other provision of this subsection or any other law, a person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which a person may be prosecuted in a court of the United States, uses or carries a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—

"(A) be punished by imprisonment for not less than 10 years;

"(B) if the firearm is discharged, be punished by imprisonment for not less than 20 years; and

"(C) if the death of a person results, be punished by death or by imprisonment for not less than life.".

SEC. . MANDATORY MINIMUM PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS OR WHO USE MINORS IN DRUG TRAFFICKING ACTIVITIES.

(a) DISTRIBUTION TO PERSONS UNDER AGE 18.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a) (first offense) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided bysection 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age by a person 21 or more years of age shall be not less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence."; and

(2) in subsection (b) (second offense) by inserting after the second sentence "Except to the extent a greater sentence is otherwise authorized by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age by a person 21 or more years of age shall be a mandatory term of life imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 420 of the Controlled Substance Act (21 U.S.C. 861) is amended—

(1) in subsection (b) by adding at the end the following: "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted under this subsection shall be not less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence."; and

(2) in subsection (c) (penalty for second offenses) by inserting after the second sentence the following: "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted under this subsection shall be a mandatory term of life imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence.".

SEC. . LIFE IMPRISONMENT WITHOUT RELEASE FOR DRUG FELONS AND VIOLENT CRIMINALS CONVICTED A THIRD TIME.

Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking "If any person commits a violation of this subparagraph or of section 418, 419, or 420 after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence." and inserting "If any

person commits a violation of this subparagraph or of section 418, 419, or 420 (21 U.S.C. 859, 860, and 861) or a crime of violence after 2 or more prior convictions for a felony drug offense or crime of violence or for any combination thereof have become final, such person shall be sentenced to not less than a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term 'crime of violence' means an offense that is a felony, punishable by a maximum term of imprisonment of 10 years or more and has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.".

Mr. GRAMM. Madam President, I would like to begin by saying I believe we have the makings of a historic crime bill. I want to do everything I can to help us move ahead with this crime bill because I think we have put together a funding mechanism that will assure we are not just promising to do something about violent criminals, but that we are actually going to get something done. We are not just promising to put police officers on the street, we are actually providing the money to put 100,000 of them on the street. We are not just promising to build prisons, we are building 10 regional prisons, and we are allowing States to participate with us in using these prisons to incarcerate violent repeat offenders. But, in order for States to participate they have to adopt a truth-in-sentencing provision that requires that when someone is sent to prison for a long time, they serve a long time in prison.

It had been my intention to offer a series of amendments, but in trying to help us move this bill forward, what I have done is combined a series of amendments into one amendment. I assume anybody who would support any one of these provisions would support all three of them and anyone who would oppose any one of them would probably oppose all three of them. So, if the amendment is rejected, then I would like to offer each of them independently, but I think the issue is basically the same.

Let me begin by talking about what I am doing in terms of mandatory minimum sentencing, and then I would like to talk about a dispute with the chairman that I would like to work on and see if we could compromise. But let me first go through the amendment. Then when the chairman gets back we can talk about the other issue.

The amendment I have sent to the desk strikes language in the bill, and it inserts three new provisions. The first provision has to do with firearms. This is not a gun amendment; this is a criminal amendment. This is not an amendment that blames guns for crime; this is the amendment that blames criminals for crime. What it says in essence is this: If someone is in the act of committing a violent crime or a drug felony and they have a gun and they are apprehended and convicted, they are going to serve 10 years in prison without parole for possessing a firearm during the commission of a violent crime or drug felony, no matter what sentence they get for the violent crime or drug felony itself.

The amendment also says, if they discharge the firearm, they get 20 years in prison. If they kill somebody, they get life imprisonment without parole. And, under aggravated circumstances and other provisions of this bill, they would get the death penalty.

The basic objective here is to send a very clear signal to those who would carry firearms and those who would commit violent crimes or drug felonies: You are going to get a mandatory minimum sentence of 10 years in prison for carrying that firearm during the commission of a violent crime or drug felony. If you discharge the firearm, you are going to get 20 years in prison without parole. If you kill somebody, you are going to spend the rest of your life in prison. And if it is an aggravated circumstance, you are going to be put to death. That is the first provision.

The second provision tries to deal with two separate circumstances. One is some drug hoodlum using children todistribute drugs. All of us have read too many accounts of drug lords who, in trying to protect themselves, use minors to actually deliver the drugs. The second provision that would be covered is people selling drugs to minors; and to try to be absolutely sure we are getting adults who are selling drugs to minors, we define an adult as somebody who is 21 or over and a minor as somebody who is under 18. But the bottom line, the logic of the amendment is very simple. If you sell drugs to a minor, no matter who your daddy is or how society has done you wrong, and you are apprehended and convicted, you are going to spend 10 years in the Federal penitentiary and you are going to serve every single day of that sentence. If you use minors in a drug conspiracy, if you use minors to deliver drugs and you are apprehended and convicted, you are going to spend 10 years without parole in the Federal penitentiary.

The final provision is similar to an amendment that was offered before, but I think it has a better, stronger definition. I think it encompasses more, so I included it in this one single amendment. This is what we normally call the three-time loser provision. But unlike the amendment that was offered before, this would include both drug felonies and major violent crimes. What it says simply is this: If you commit any combination of three major drug felonies or serious violent crimes, on the third conviction you get life imprisonment without parole.

We have had an ongoing discussion about mandatory minimum sentencing. We have all seen stories that have been written by those who oppose mandatory minimum sentencing. I would like to relate two that have appeared in the newspaper before I talk about what to do about first-time offenders.

There have been two stories that have been used as examples of where mandatory minimum sentencing for drug felons is unfair. The first one was an AP story, and it was a story about a lady who went to visit her husband who was a fugitive from justice in Panama. While she was in Panama, in what the author of the story called desperate straits, she put 4 pounds of cocaine in her girdle and attempted to smuggle the cocaine back into the United States. She was apprehended and was given a mandatory minimum sentence, and she is in the Federal penitentiary.

The logic of the story was that this was a lady who basically had troubles, this was her first offense, and the fact that she was smuggling cocaine into the country was a relatively minor thing and it was outrageous that she was given a mandatory minimum sentence.

My guess is, had the author's child been the target of that cocaine, the author might have felt differently about it. Frankly, I believe anybody smuggling cocaine into the United States ought to get a mandatory minimum sentence and probably should be grateful that the sentence is no greater than it is.

The second story I have read used this example of how unfair mandatory minimum sentences are: A student in junior college was working with her boyfriend to sell drugs into a high school, and she met with an undercover agent and arranged the delivery of drugs to be delivered by her boyfriend to be sold into a high school. She was apprehended because she was not talking to somebody who was buying drugs to use but instead was talking to an agent. And the point of the story was, this poor lady who was a good student in junior college, is now in the Federal penitentiary because she was involved in a drug conspiracy, trying to sell drugs to children in high school.

Again, I submit, if those were your children that probably was not a nonviolent offense. If they were your children this was probably not a minor matter. Obviously, the person writing this story saw this as an example of the unfairness of mandatory minimum sentences.

I would simply like to relate some data that, at least to me, put this in perspective. The one thing I know as an old schoolteacher is that you can use data about any way you want to. This is my effort to try to look at this problem.

The question is, How many people who were given mandatory minimum

sentences are really just people who happen to be in the wrong place at the wrong time doing the wrong thing?

According to the U.S. Sentencing Commission, in fiscal year 1992, a total of 9,221 individuals were convicted on drug offenses which carried a mandatory minimum sentence. Of that total, 662 were individuals who carried no weapon, had zero criminal history points, and had played only a minimal or minor role in the offense.

Out of the 9,221 people in 1992 who were subject to mandatory minimum sentencing, 662 had no criminal record, did not carry a weapon, and had played only a minor, mitigating role in the offense. Of those 662, 306 were non-U.S. citizens. We do not know what their record was. We do not know how many crimes these people had committed in their own country.

Of those who were U.S. citizens and for whom complete sentencing data is available, only 180 individuals received the mandatory minimum sentences. The others had their sentences reduced because of the assistance they rendered, or for other reasons.

In 1992, 9,221 were people convicted of drug crimes that carried mandatory minimum sentences. When you look at the people who were not carrying a weapon, who had no criminal history, and who were only minor players in the crime, you reduce that down to 662; 306 of whom were not American citizens, and we do not know what their criminal history was.

When you get down to the ones we actually have data on—which is not all of them—and you look at the people who provide assistance in prosecuting other people, we get down to 180 people out of 9,221.

So was anybody who was sentenced to a mandatory minimum sentence someone who just happened to be committing a major drug felony but had no criminal record, did not carry a weapon, and was not a major player in the crime? Of those 9,221 that we have good data on, only 180 might have fallen into those categories and yet got a mandatory minimum sentence.

I know there are a lot of writings. I told the story of a lady who smuggled cocaine into the country in her girdle. I talked about the lady who was a junior college student who was engaged in a drug conspiracy to sell drugs to minors. Those are held out in articles as examples of the unfairness of mandatory minimum sentencing.

Madam President, I am not convinced, but also I would like to work with my colleagues. So what I have done is I have struck the provisions of the bill that would eliminate mandatory minimum sentencing under certain conditions and I have substituted the three mandatory minimum provisions which seem to have become my annual contribution to the crime bill but which never become the law of the land. Even though we vote for them in the Senate, even though we vote for them in the House, they always mysteriously die in conference.

But I am willing to sit down with the chairman of the committee and the ranking member and try to come up with language that would deal with the case where you had a first offender who carried no weapon, who had no criminal record, including an extensive juvenile record, who was not an illegal alien, and who played a minor role in the drug offense. I would be willing to try to work something out with the chairman and with the ranking member. But I want a provision that says that if this same person who happened to be in the wrong place at the wrong time doing the wrong thing, that if, in fact, they happen to be in the wrong place at the wrong time doing the wrong thing a second time, I want 20 years in prison without parole for conviction of that offense.

That is something that is not in this bill, but it is something that I am willing to sit down and talk with others who are concerned about what many or some at least feel to be an injustice.

Quite frankly, Madam President, I believe selling drugs to minors is a violent crime. I think much of the violence in our society springs from drugs. Someone selling drugs to a child, in my opinion, ought to go to prison and ought to be there a very long time. But what I have done is simply struck the language which would weaken mandatory minimum sentencing. I am willing to sit down with any of my colleagues and see what might be worked out on that issue. What I have substituted for that language is three new mandatory minimum provisions.

First, mandatory minimum sentencing for gunviolations, 10 years for possession, 20 years for discharge, life imprisonment without parole for killing somebody, and the death penalty in aggravated cases.

The second provision has to do with conviction of not one, not two, but three violent crimes or drug felonies, a three-time loser provision for a combination of violent crimes and drug felonies, life imprisonment.

And, finally, mandatory minimum sentencing, 10 years in prison, for selling drugs to a minor under any circumstances. So if someone has a parent who is powerful and greatly respected, or if someone has the saddest sob story about how society has done them wrong, it would not do them any good if they were convicted of selling drugs to a minor because they would have 10 years in prison to decide not to do it again.

That is the essence of the amendment. These are amendments that we have voted on many times; I think our colleagues understand them perfectly; and rather than coming down and offering three different amendments—since I believe that we have made great progress on this bill and I very much want to see it become the law of the land—I thought I would just combine all three amendments, propose a simple amendment in bringing all three together, strike the provision in the bill that undermines mandatory minimum sentencing, and say to any of my colleagues that, before we finish the bill, I would be willing to sit down and discuss with them, at least by my numbers, this 180 people out of 9,221 last year who were given a mandatory minimum sentence who did not have a criminal record, did not possess a weapon, were not illegal aliens, were not active participants in the crime in terms of being a leader of a drug conspiracy. I think it is a straightforward amendment. We have debated it many times. I do not require an extensive debate on it.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

AMENDMENT NO. 1131 TO AMENDMENT NO. 1130

(Purpose: To provide for increased mandatory minimum sentences for criminals using firearms and for life imprisonment without release for criminals convicted a third time, and to provide for flexibility in sentencing for certain nonviolent offenses in which a mandatory minimum term of imprisonment is imposed by law)

Mr. HATCH. Madam President, I appreciate the amendment of the distinguished Senator from Texas, and I want to improve the amendment. So 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 Utah [Mr. HATCH] proposes an amendment numbered 1131 to amendment No. 1130.

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

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

The amendment is as follows:

In the pending amendment, strike all after the first word and insert the following:

Subtitle B—Mandatory Minimum Sentence Guidelines

SEC. 2911. FLEXIBILITY IN APPLICATION OF MANDATORY MINIMUM SENTENCE PROVISIONS IN CERTAIN CIRCUMSTANCES.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 3553 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(f) MANDATORY MINIMUM SENTENCE PROVISIONS.—

"(1) SENTENCING UNDER THIS SECTION.—In the case of an offense described in paragraph (2), the court shall, notwithstanding the requirement of a mandatory minimum sentence in that section, impose a sentence in accordance with this section and the sentencing guidelines and any pertinent policy statement issued by the United States Sentencing Commission.

"(2) OFFENSES.—An offense is described in this paragraph if—

"(A) the defendant is subject to a mandatory minimum term of imprisonment under section 401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960);

"(B) the defendant does not have—

"(i) more than 1 criminal history point under the sentencing guidelines; or

"(ii) any prior conviction that resulted in a sentence of imprisonment (or an adjudication as a juvenile delinquent for an act that, if committed by an adult, would constitute a criminal offense, that resulted in the defendant's being taken into State custody);

"(C) the offense did not result in death or serious bodily injury (as defined in section 1365) to any person—

"(i) as a result of the act of any person during the course of the offense; or

"(ii) as a result of the use by any person of a controlled substance that was involved in the offense;

"(D) the defendant did not carry or otherwise have possession of a firearm (as defined in section 921) or other dangerous weapon during the course of the offense and did not direct another person who possessed a firearm to do so;

"(E) the defendant was not an organizer, leader, manager, or supervisor of others (as defined or determined under the sentencing guidelines) in the offense; and

"(F) the defendant was nonviolent in that the defendant did not use, attempt to use, or make a credible threat to use physical force against the person of another during the course of the offense.".

(b) HARMONIZATION.—

(1) IN GENERAL.—The United States Sentencing Commission—

(A) may make such amendments as it deems necessary and appropriate to harmonize the sentencing guidelines and policy statements with section 3553(f) of title 18, United States Code, as added by subsection (a), and promulgate policy statements to assist the courts in interpreting that provision; and

(B) shall amend the sentencing guildelines, if necessary, to assign to an offense under section 401 or 402 of the Controlled Substances Act (21) U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) to which a mandatory minimum term of imprisonment applies a guideline level that will result in the imposition of a term of imprisonment at least equal to the mandatory term of imprisonment that is currently applicable unless a downward adjustment is authorized under section 3553(f) of title 18, United States Code, as added by subsection (a).

(2) If the Commission determines that an expedited procedure is necessary in order for amendments made pursuant to paragraph (1) to become effective on the effective date specified in subsection (c), the Commission may promulgate such amendments as emergency amendments under the procedures set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100–182; 101 Stat. 1271), as though the authority under that section had not expired.

(c) EFFECTIVE DATE.—the amendment made by subsection (a) and any amendments to the sentencing guidelines made by the United States Sentencing Commission pursuant to subsection (b) shall apply with respect to sentences imposed for offenses committed on or after the date that is 60 days after the date of enactment of this Act.

SEC. . INCREASED MANDATORY MINIMUM SENTENCES FOR CRIMINALS USING FIREARMS.

Section 924(c)(1) of title 18, United States Code, is amended by inserting after the first sentence the following: "Except to the extent a greater minimum sentence is otherwise provided by the preceding sentence or by any other provision of this subsection or any other law, a person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which a person may be prosecuted in a court of the United States, uses or carries a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—

"(A) be punished by imprisonment for not less than 10 years;

"(B) if the firearm is discharged, be punished by imprisonment for not less than 20 years; and

"(C) if the death of a person results, be punished by death or by imprisonment for not less than life.".

SEC. . MANDATORY MINIMUM PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS OR WHO USE MINORS IN DRUG TRAFFICKING ACTIVITIES.

(a) DISTRIBUTION TO PERSONS UNDER AGE 18.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a) (first offense) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age by a person 21 or more years of age shall be not less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this preceding sentence."; and

(2) in subsection (b) (second offense) by inserting after the second sentence "Except to the extent a greater sentence is otherwise authorized by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age by a person 21 or more years of age shall be mandatory term of life imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or spend the sentence of any person sentenced under the preceding sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b) by adding at the end the following: "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted under this subsection shall be not less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence."; and

(2) in subsection (c) (penalty for second offenses) by inserting after the second sentence the following: "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted under this subsection shall be a mandatory term of life imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or spend the sentence of any person sentenced under the preceding sentence.".

SEC. . LIFE IMPRISONMENT WITHOUT RELEASE FOR DRUG FELONS AND VIOLENT CRIMINALS CONVICTED A THIRD TIME.

Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking "If any person commits a violation of this subparagraph or of section 418, 419, or 420 after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence." and inserting "If any person commits a violation of this subparagraph or of section 418, 419, or 420 (21 U.S.C. 859, 860, and 861) or a crime of violence after 2 or more prior convictions for a felony drug offense or crime of violence of for any combination thereof have become final, such person shall be sentenced to not less than a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term 'crime of violence' means an offense that is a felony punishable by a maximum term of imprisonment of 10 years or more and has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.".

Mr. HATCH. Madam President, this is a very, very important amendment the distinguished Senator from Texas brought to the floor. If we adopt his amendment and his tripartite part of this amendment as part of our amendment that was sent to the desk, we write some flexibility in the case of first-time offenders, nonviolent offenders who have not sold drugs in the schools and to children.

I have talked with judges all over this country, and they have all indicated to me, most all have indicated to me—and I do not know of any objections—that they need more flexibility in some of these cases because the mandatory minimums are resulting in injustices. So this amendment will bring a greater measure of credibility to our criminal justice system. I can think of no issue more vital to our national interest than the control of drug abuse and violent crime. The Hatch amendment, which, of course, includes the Gramm amendments, will help restore credibility in our criminal justice system by ensuring that violent offenders and recidivists will face enhanced mandatory minimum sentences, by returning a measured degree of discretion to the courts in cases involving first-time, nonviolent drug offenders.

The American dream that every American has an opportunity to improve his or her lot in life and that our children will do better than their parents is threatened if we continue to fear for our safety in our neighborhoods, if innocent people continue to fall prey to criminals, and if young men and women are forever dragged down by drug addiction. Essential to our ability to improve our criminal justice system's response to crime and drugs is a review of our Government's enforcement and sentencing policies to ensure that they have their intended effect.

Consistent with this responsibility, Attorney General Janet Reno, whom I

admire and respect, has announced a review of Federal sentencing policies. I am anxious to review the Department's findings.

As the Supreme Court affirmed in the case of Mistratta v. United States in 1989, the Constitution does not exclusively assign to any one of the three branches of Government responsibility for Federal sentencing—the function of determining the scope and extent of punishment for Federal offenses. Still, the Constitution assigns to Congress the power to define crimes and fix the degree and method of punishment.

While the right to try offenses and, upon conviction, impose punishment is judicial, Congress has the power to control the scope of judicial sentencing discretion. If exercised appropriately, these powers provide Congress with a prominent and constructive role in Federal sentencing.

In recent years, Congress has begun to take a more active role in the sentencing system and has fundamentally altered our Nation's sentencing goals and practices. As most of my colleagues on the Judiciary Committee know, Congress' assertion of its power in this area has been the subject of much debate, controversy, and litigation.

In 1984, a bipartisan majority of Congress rejected the rehabilitation policies of the 1960's and 1970's. Congress found that this soft-headed approach to crime lacked the certainty necessary to retain the confidence of society and be an effective deterrence against crime. Indeterminate sentencing produced disparity and uncertainty in sentencing and a fundamental lack of comprehensiveness and consistency. The concern which Congress had for so long was at the heart of these disparities. There was unjustifiable variation in the sentences imposed by judges upon similarly situated defendants and the Parole Commission compounded the problem by releasing prisoners according to its own view of the appropriate term of imprisonment.

By 1984, Congress and the American people had had enough.Congress began to take a more prominent role in sentencing policy. Through passage of the Sentencing Reform Act of 1984, which I along with Senators THURMOND, KENNEDY, BIDEN, and others authored, Congress outlined the objectives of sentencing, described in detail the kind of sentences that may be imposed and described the factors to be considered in sentencing in a particular case. Rehabilitation was rejected as a primary objective of sentencing. Certain and effective sentencing became the primary goals of sentencing.

The most revolutionary aspect of the 1984 act was the creation of the U.S. Sentencing Commission. The commission produced a guidance system which furthered the Congress' stated objectives for sentencing by curtailing unwanted sentencing disparity, ensuring sentence certainty and providing just punishment. Congress in order to ensure that there was adherence to this new sentencing philosophy made the guidelines compulsory and abolished parole.

Congress' pursuit of certain ineffective sentencing did not end with the creation of the sentencing commission. Congress began to renew support for mandatory minimum sentences. From 1984 to 1990, Congress enacted an array of mandatory minimum penalties specifically targeted at drugs and violent crime. The purpose of mandatory minimum penalties is to deter through the prospect of certain and lengthy prison terms potential offenders from engaging in these offenses. As well, mandatory minimum sentences embody Congress' view of the appropriate minimum level of punishment for these offenses. Inherent in judging the effectiveness of mandatory minimum sentences, however, is the need to ensure that there is uniform application in cases involving similarly culpable defendants.

Today there is a significant debate over whether Congress' enhanced role in sentencing has proven beneficial. On the whole, I believe it has. Supporters and critics alike acknowledge that while sentencing guidelines have been in effect for only a short time, the current system is more predictable and uniform and therefore preferable to policies of the 1960's and 1970's. As well, mandatory minimum sentences have enhanced the likelihood of incarceration for certain serious offenses. In recent years, some have begun to question whether mandatory minimums advance the objectives of sentences as established in the 1984 act. Some believe that the mandatory minimum sentences are too tough or unfair. I do not share this view. My view on this subject is that we need to take a close look at mandatory minimum sentences. In some cases we need more of them. In other cases we need to return to a greater degree of discretion of the judiciary.

The amendment I offer today accomplishes both of these objectives. First, my amendment enhances the mandatory minimum penalties for firearms related offenses. It is virtually identical to the proposal authored by Senator GRAMM and contained in the Dole-Hatch bill which provides that anyone who carries a firearm in a crime of violence or drug trafficking offense receives a mandatory minimum sentence of 10 years in prison. Firing the firearm carries with it an additional 20 years. If the firearm is a semiautomatic rifle, the amendment provides for 30 years imprisonment, mandatory. If death or serious bodily injury results, the amendment imposes mandatory life imprisonment. As well, the amendment provides mandatory life for three-time losers.

Mr. President, a relatively small portion of the populationis responsible for a large amount of the violent crime in this country. A University of Pennsylvania study found that about 66 percent of the violent crimes were committed by 7 percent of young males. Common sense dictates that the imprisonment of the violent chronic offender will reduce the amount of violent crime. The evidence indicates that mandatory minimum penalties for violent offenses are being applied in a uniform manner, thereby deterring crime, incapacitating deserving criminals and reducing unwarranted sentencing disparity.

In my opinion, the mandatory minimum penalties proposed in this amendment provide an appropriate and just level of punishment for what are often brutal offenses. Some may argue that Congress should not enact any more mandatory minimum penalties. I do not share this view. Mandatory minimum penalties for violent offenders, if applied uniformly, are entirely appropriate and accomplish Congress' stated goals of predictability and uniformity in sentencing.

Due in large part to what is commonly referred to as the Thornburgh memorandum, mandatory minimum penalties for firearms offenses are being applied in a uniform manner. The Thornburgh memo initiated a still ongoing policy within the Department of Justice that limits the ability of Federal prosecutors to plea bargain or drop charges against defendants who violate the armed career criminal statute. There is no disputing the fact that armed career criminals through the operation of the Thornburgh memo and Project Trigger Lock are being charged with section 924(c) violations, use of a firearm in a drug trafficking or a crime of violence, and that they are receiving the required mandatory minimum sentences.

My amendment appropriately enhances the penalties under section 924(c) so that we can be assured that there will be no further danger to the public.

Despite my strong support for mandatory minimums in general, especially for cases involving violent offenders, I am concerned that some mandatory minimum sentences for nonviolent offenses have led to some sentencing disparity. The critical factor controlling the effectiveness of mandatory minimum sentences is whether they are applied in a uniform manner. Absent uniform application, there is no sentencing certainty and therefore they are of less value as a deterrent.

The judiciary conference, the Federal Court Study Commission and the sentencing commission all found that in many cases involving nonviolent offenders mandatory minimums are not being applied in a uniform manner.

In a major study of mandatory minimums ordered by Congress, the United States Sentencing Commission found that offenders whose conduct warranted application of mandatory minimum sentences failed to receive those sentences approximately 41 percent of the time. Further, of the 60 criminal statutes containing mandatory minimums, only 4 result in frequent convictions. A lack of uniform application in nonviolent drug cases involving first-time offenders is reducing sentencing certainty.

Why is this the case? The Federal sentencing guidelines incorporate a real offense approach to sentencing, but mandatory minimums are basically a charge-specific approach wherein the sentence is only triggered if the prosecutor chooses to charge the defendant with a given offense or charge certain things.

So unless the prosecutor charges the defendant with a mandatory minimum offense, it is uncertain that the mandatory sentence envisioned by a Congress will actually be imposed.

Quite often more comparable defendants higher in the drug conspiracy can oppose evidence and information which is of use to the prosecutor. These offenders can essentially sell that information to a prosecutor in exchange for a reduced charge, or a prosecutor can agree to make a motion to reduce a sentence based on substantial assistance.

When the court grants a substantial-assistance motion, mandatory minimum sentences do not apply. Meanwhile, low-level, nonviolent offenders, who have no information to provide the authorities because they have only limited involvement with a given enterprise or are acting alone, get charged with the mandatory minimum offense and cannot benefit from the substantial-assistance motion.

For these reasons, I believe Congress must return a limited degree of discretion to the courts for sentencing first-time nonviolent offenders in certain nonviolent drug offenses.

I am not alone in my desire to address this problem. A bipartisan group of Senators who have been working on this issue for some time, and those who have expressed interest in this effort include Senators THURMOND, SIMPSON, WARNER, SIMON, KENNEDY, and LEAHY.

The Hatch amendment, in addition to enhancing mandatory minimum penalties for violent offenders, steps up to the plate and delivers the narrow reform needed to return a small degree of discretion to the courts for a small percentage of nonviolent drug cases. It essentially permits the courts, consistent with the sentencing guidelines, to impose sentences below the mandatory minimums for drug trafficking, distribution, and possession offenses, provided the defendant was nonviolent, is nonviolent, not a leader, or organizer, and that he or she is a first-time offender. Mandatory minimum sentences for violent offenses or for child-related drug offenses are not affected by this part of my amendment.

Before the court can even consider going below the mandatory minimum, the court would have to find that each of the following factors have been met:

First, the offense must be the defendants first felony conviction. The exception to this is if the defendant has one prior conviction which did not result in any sentence or imprisonment or incarceration, yet acts of delinquency committed by a juvenile would be considered prior convictions for purposes of this legislation.

Old convictions which did not result in a prison sentence are not counted.

Second, if the act does not result in death or serious bodily injury to any person. This would cover reasonably foreseeable acts committed by conspirators which result in death or injury, as well as serious injuries or death resulting from the use of drugs.

Third, the defendant does not carry or possess a firearm or did not carry or possess a firearm or other dangerous weapon during the course of the offense, or direct another to do so. In my view, if a defendant carried a knife or firearm, he is violent and should face the mandatory minimum penalty.

Fourth, the defendant was not an organizer, leader, manager, or supervisor as defined under existing sentencing guidelines. This ensures that a first-time offender who is nevertheless a major dealer or trafficker, would still face the mandatory minimum sentence.

Fifth, the offender was nonviolent—if he or she did not use force against the person of another during the offense. Any person who uses or credibly threatens violence should face the mandatory minimum penalty.

According to the Sentencing Commission, far less than 5 percent of mandatory minimum drug defendants will meet all of these factors. If all of these factors are met, a sentencing judge would then be permitted to apply the guidelines without being bound by the mandatory minimum.

Mr. President, I will finish the remainder of my remarks during the course of this debate.

So, at this particular point I hope that our fellow Senators will recognize the amount of effort and time and thought that has gone into the amendment that I am proposing, because I think it is the right amendment to show the necessary discretion, and yet the necessary toughness in these matters so that this bill is enhanced, not hurt by that.

So, with that, I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Madam President, I came over here, but I have not had a chance to examine, except very briefly, the Gramm amendment, and I have not had a chance to look at the Hatch amendment. We are talking about something that can affect the lives of a great many citizens in our country.

So in order to give us a chance to look at this, I question the presence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMON. 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. SIMON. Mr. President, I ask unanimous consent that the pending amendment be set aside so that I may offer another amendment.

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

AMENDMENT NO. 1132

(Purpose: To prohibit the imposition of a sentence of death for crimes committed by persons under the age of 18 years)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Illinois [Mr. SIMON] proposes an amendment numbered 1132.

At the appropriate place insert the following:

No person in the United States shall be sentenced to death for a crime committed when the person was under 18 years of age. The district courts of the United States shall have jurisdiction of proceeding for injunctive and equitable relief to enforce this section.

Mr. BIDEN. Mr. President, if the Senator will yield for a moment, maybe this has already been done. Is the Senator prepared to enter into a time agreement on his amendment?

Mr. SIMON. I am certainly prepared to do that as I indicated to Senator BIDEN over the phone. If we want to have 40 minutes or 20 minutes on each side, that is fine with me.

Mr. BIDEN. Mr. President, I ask unanimous consent that there be 40 minutes equally divided on the amendment of the Senator from Illinois, that the time be handled in the usual manner, and that there be no second-degree amendments.

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

Mr. SIMON. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMON. Mr. President, my amendment simply says that capital punishment may not be applied if you are under the age of 18.

In June 1992, the Senate gave its advice and consent to the International

Covenant on Civil and Political Rights which a great many countries have adopted. Part of that is to say in this area of civil and political rights that no one under the age of 18 will be executed by a country.

When we acceded to the covenant last year, however, we did it subject to some exceptions. One of those was that we retain the right to execute individuals who had committed crimes while under the age of 18.

What countries now execute people under the age of 18? Mr. President, you will be interested in this list. In the last decade, the only countries to impose capital punishment on people under the age of 18 are Bangladesh, Barbados, Pakistan, Iraq, Iran, and the United States of America.

I do not think we should continue in that kind of lonely company.

Since 1976, about 75 people who were under 18 when they committed their crimes were sentenced to death in the United States. At present, about 35 of 2,800 inmates across the Nation who are now on death row committed their crimes when they were under the age of 18.

So we are talking about 1 percent of those who are on death row. One of the other realities is because they are minors there are many more appeals, and it costs literally millions to prosecute in the case of minors in the United States.

It is also interesting that in the case of minors, race plays an even greater part. One of the things that is clearlywrong with our system of punishment is that if you are an African-American, if you are a Hispanic-American, the reality is—and you commit the same crime as someone who is white who lives in the suburbs—you are going to get a harsher punishment. That is also true for young people in the case of capital punishment.

I could go on into other cases. I might mention, Mr. President, that in 1988, the Court threw out the death sentence of an Oklahoma youth who committed his crime when he was 15. But the Court in 1989 held in a 5-to-4 decision that States are free to impose the death penalty for young people 16 and 17.

I think we ought to join the large overwhelming majority of nations in outlawing the death penalty for those under the age of 18.

I might mention, because someone is probably going to mention this—am I opposed to the death penalty generally? Yes; I am. I think the evidence is overwhelming that the death penalty is applied only to those of limited means.

If you have the money to hire a good attorney, you do not get the death penalty. But to apply the death penalty to people under the age of 18 I think is unconscionable.

I hope—maybe there will be no opposition—the amendment could be agreed to, and we could vote on it. But I do not anticipate that will be the case.

I yield the floor.

Mr. BIDEN. Mr. President, will the Senator yield a few minutes of his time to me because I support his amendment?

Mr. SIMON. I yield 4 minutes to the Senator from Delaware.

Mr. BIDEN. I thank the Senator.

Mr. President, I think this is a good amendment. As a matter of fact, I think it is a necessary amendment. I support the death penalty unlike I believe my friend from Illinois, I believe, and unlike some in this Chamber. I happen to support, and have supported the death penalty.

But there are two things that I have had great difficulty with, for those who do support the death penalty. One is when they have, in addition to supporting the death penalty, lessened the safeguards built into the process whereby you significantly diminish the prospect that you do not put to death an innocent person. That does happen in a system like ours. No matter how perfect the system, that happens.

So in this bill we have a so-called death penalty procedure section that is designed to see to it that although the death penalty is available, it is available only in circumstances wherever reasonable constitutional safeguards available to a criminal defendant is afforded that defendant.

This is a second area I have great difficulty with regarding the death penalty; and that is, putting children to death. I realize I am one of an overwhelming minority who last Friday voted to not treat 12-year-olds and 13-year-olds as adults. We passed on this floor a bill overwhelmingly, I might add—maybe it is me—overwhelmingly last week that called for a requirement—not discretionary—requirement that in Federal court a 13-year-old committing certain crimes must be tried as an adult in Federal court.

I personally have great difficulty with that idea.

I have always had difficulty with the idea that we are going to, where the death penalty is available, subject people under the age of 18 to the death penalty.

It seems to me when we do that we have basically in a sense surrendered. We have surrendered to our baser side. We have surrendered in a way that undercuts the whole notion that there is any such thing as youth, and that there is the possibility of redemption, if you will. So I hope—although I have no illusions, as I have been here long enough to know that the Senator from Illinois is going to have a tough fight on this one—I hope that we will be able to pass his amendment, and I just plead for a little bit of mercy on this floor when it comes to the death penalty.

I can understand how everyone is prepared to not be inclined to feel that way in almost every imposition of every other sentence. But death is final, to state the obvious. I just think that this is a bit of a measure of what kind of society we think ourselves to be.

Again, as I said, we are attaching this to a bill that is called the Biden crime bill—I introduced this bill—but we are adding all these amendments to this. I wrote this bill. I wrote into the law that we add a number of death penalty provisions at a Federal level. So I support the death penalty. But it seems to me that we should have some sense of societal compassion when it comes to dealing with children in society.

I know you can give examples where 17-year-olds are as bad as 18-year-olds, and 15-year-olds are as bad as 30-year-olds, but I wish we would not do this.

(Mr. SIMON assumed the chair.)

Mr. BIDEN. I assume, since the Presiding Officer is the person controlling the time on his own amendment, that as manager of the bill I am able to control the time for the Senator from Illinois, in which case I have been instructed to yield 5 minutes to the distinguished Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I also rise in strong support of the Chair's amendment. The senior Senator from Illinois has brought up a very important amendment that I think would improve this bill. I am delighted to hear of the support of the chairman of the committee for it as well.

What the senior Senator from Illinois has brought up very clearly is: What kind of a society executes its youth? That is the question. He has really given the answer. He mentioned those six countries in the world that do this—Bangladesh, Barbados, Pakistan, Iraq, Iran, and the United States. Not only is it not necessarily good company to be in with those countries on a variety of issues, but particularly in the area of human rights.

I further understand that even South Africa and Libya have set a minimum age of 18 before they would impose the death penalty, and that includes, apparently, even countries that have criminal codes that I think would disturb us in many respects. Yet, more than half of the States in our United States with the death penalty actually allow execution of offenders under the age of 18 at the time of their offense.

This amendment would halt the practice of executing juvenile offenders in the United States and thus bring us into accord with the rest of the international community. In fact, as the Senator from Illinois pointed out, the Senate gave its advice and consent to the International Covenant On Civil and Political Rights that would ban this practice. It is unfortunate that the United States acceded to the covenant last year with a few exceptions, one being to reserve the right to execute

individuals who commit crimes while under the age of 18.

The international consensus on this issue is so strong that it has also been included in the Geneva Convention relative to the protection of civilian persons in time of war; the American Convention of Human Rights; the American Declaration of the Rights and Duties of Man, just to name a few.

I do not want to leave any doubt—as I am sure the author does not—that there should be stiff and severe punishment for youths who commit these serious violent crimes that some States have chosen to reserve the death penalty for. But the idea of imposing the death penalty, to me, in these situations is outrageous. What purpose does it serve? The threat of execution, in my view, does not deter adults. Why would it deter a juvenile who is even less likely than an adult to think ahead to the consequences of his or her behavior?

I have been told by some who have worked in the environment that it is more dangerous to work in a juvenile maximum securityfacility than in an adult prison. The number of assaults in juvenile facilities is much higher than in adult facilities. I think this is, at least in part, due to the fact that juveniles are usually less rational than adults and do not think about the consequences of their actions.

The death penalty will not and does not deter juvenile criminal behavior. I am afraid it may actually encourage violence among youth. It is my view across the board that the death penalty only adds to societal violence and is morally wrong. When it comes to youth, it has a special lack of reasoning connected with it.

We are all concerned about the disturbing rise in violence among our Nation's young people. We should be and are seeking ways to turn this tide and, hopefully, we can provide them with reasons and alternatives that will help them not to resort to violence. That is the goal, to think of violence as an unacceptable alternative. How many times do we have to hear about kids shooting other children over a fight or dispute, or as the result of even more shocking circumstances as we have had in our own home State of Wisconsin, such as one kid wants another kid's pair of shoes, or a warmup jacket.

What kind of a signal does this practice of executing kids under 18 send to these young people? It is the signal of death, that even our Federal Government is in the death business and wants to expand its participation into the death business; that the States allow the execution of juveniles and that that is what our country is all about. We are sending the wrong message to our youth with this practice: If you commit a violent act, we the Government will also resort to violence and will kill you.

I think that is wrong; it is the wrong message, and I am very, very pleased with the amendment of the Senator from Illinois. I am enthusiastic about supporting it.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from Utah.

Mr. HATCH. Mr. President, I appreciate this opportunity to talk about this particular amendment.

I have to say that I cannot support it. There is one simple and very solitary reason why I cannot support it. And that is, here we are, Senators of the Federal Government telling the States what they have to do with regard to something as important as capital punishment. I think the States are very capable of making up their own minds, regardless of what we may think one way or the other. This is the ultimate "we know it all here in the Federal Government within this beltway" amendment.

Frankly, I do not think we should support an amendment that would impose upon the States this type of an obligation. I haveto say that I have some empathy for the Senator's amendment if we limit it to the Federal Government. I would probably support it if it was limited to the Federal Government. But when we start getting to the point where we start dictating to the States how they can handle these problems, I think it is a big mistake. I think it is not the thing to do. Mr. President, we do that too often——

Mr. SIMON. If the Senator will yield on that point, we have signed the International Covenant on Civil and Political Rights, and under that covenant, it says that those under the age of 18 should not be executed. We made clear when we approved that that we did not include this provision. Nevertheless, we have signed that. And under the Constitution, article I, section 8, it says: "Congress has the authority to define and punish piracies and felonies committed on the high seas, and offenses against the law of nations."

This is something that clearly the huge majority of nations, by signing this international covenant, have agreed is the law of nations. In fact, I do not know if the Senator was here when I pointed out that the only nations in the last decade to execute those under the age of 18 have been Bangladesh, Barbados, Pakistan, Iraq, Iran, and the United States of America.

So I think we have a legal precedent. I think it is clearly constitutional. If the point that the Senator from Utah makes is that it is unwise, I differ with him in terms of its constitutionality. I think we clearly have the authority to do it.

Mr. HATCH. Even if we might have the authority to do it, the question is whether we should do it. In Stanford versus Kentucky, the Supreme Court ruled that you can impose capital punishment for 16-, 17-, and 18-year-olds. They decided that. Who are we to be standing here in the Federal Government and telling the States what they have to do?

That is precisely what is killing us with regard to the grazing fees. The Federal Government is telling the States they are going to change the whole water laws of the country. I am getting tired of that, to be honest with you.

The fact is that this particular amendment I could support if we limited it strictly to the Federal Government. I do not have any desire to impose capital punishment on young people below 18 years old. I do not have much desire to impose it on them 18 or over. I would very seldom use it, only in the most heinous of cases where there is no evidence of discrimination and there is clear-cut evidence of guilt.

The fact of the matter is what I object to is based on the principles of federalism. I object to us here in the Federal Government telling the States that they cannot do anything with regard to cleaning up crime in their own States with regard to capital punishment.

This amendment prohibits not only the Federal Government but every State from imposing a death penalty on someone who has committed a crime who is under 18 years of age. In my view, this is a matter which ought to be left to the State, given the increasing violence by younger and younger people.

States ought to be left to determine what is best for them. Frankly, some of these younger people are very hardened criminals. Some of them think they can go and shoot people at will. Some of them think it is a sport, it is a game, and they are being made into heroes by their compatriots.

Maybe some of the States where they are having particular problems might feel otherwise than we here today.

In the Stanford versus Kentucky case, the Supreme Court of the United States held that States may impose the death penalty on 16- and 17-year-olds and they can do so constitutionally.

In article I, clause 8, paragraph 10, Congress has the power to define offenses as on the basis of the law of nations.

On the other hand, that does not mean that Congress has power or should exercise its power to impose its will on the States in this particular area.

I think it is offensive to the States. It ought to be offensive to those of us who really believe in the principles of federalism. It really ought to be offensive to those of us who believe our States may have special needs and may have special situations where they may not like this rule.

Let us face it. If the Senator's amendment is limited to the Federal

Government, there would be very, very few cases where it would apply. If you put it on the State government and impose it upon them, there may be literally dozens, if not hundreds, if not thousands, of cases where it would apply, and there may be some very, very specific areas where imposing the death penalty constitutionally on 16-, 17-, and 18-year-olds may be something that will help to deter crime in those particular States, or at least the States ought to have the right to make that determination. I doubt that many will. But why should we be imposing upon them and directing them in a bill involving the Federal Government and its viewpoint toward crime?

In any event, I hope my colleagues will vote against this amendment and be happy to have it limited to the Federal Government. I would be happy to support it if it was, because I think the distinguished Senator, of course, has a very good point of view. I do not particularly disagree with him. But when you get into the area of imposing upon the States something which they themselves may not want, I think that is something we ought to leave up to the States. Let them decide for themselves, and under the Supreme Court's constitutional decision they would be able to decide for themselves what they do.

Many of them may opt to do what the distinguished Senator from Illinois decides is right for the Federal Government, and they may opt to do what he thinks is right for the States. But some of them may not, and it may be States where some of the worst criminal activity is taking place.

In Utah we had some drive-by shootings by some of the young people who are 16, 17, and 18 years of age who do not seem to care about human life at all and do not seem to have any consideration for it.

In those situations where the crimes are particularlyheinous, where they clearly have evidence of guilt, and where there is no evidence of any discrimination against a person, I am not so sure that maybe some of these 16-, 17-, and 18-year-olds should not have to face the music. Maybe it would be a very, very good thing for the rest of their friends who are thinking that guns are nice things to play with and shooting people is not a bad thing, and that they can kill their friends at will and maybe people they do not even know in drive-by shootings. Maybe it would be important for them to have to face the music, and maybe the States will decide it is that important for them to do that in certain exemplary cases where it is really deserved.

So I hope our colleagues will vote against this. I really believe it is important that we vote it down. Then, if the distinguished Senator wants to limit it to the Federal Government, then I support him on that because we have a right to make that decision, and I do understand his sincerity and desire to do that. Of course, I have a great appreciation and feeling of respect for him as well.

So I hope our colleagues will vote this amendment down. I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

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

The Senator has 5 minutes 58 seconds.

Mr. SIMON. Mr. President, I simply point out that it is already in the bill that those under 18 cannot be executed at the Federal level. I would simply reinforce what the Senator from Wisconsin said earlier, Senator FEINGOLD. Libya even has done away with executing those under the age of 18. Five nations, plus the United States, still execute people under the age of 18. Iraq and Iran are two of them. I do not like the company we are keeping, Mr. President. I think we can do better.

Mr. FEINGOLD. Mr. President, will the Senator from Illinois yield for a question?

Mr. SIMON. I am pleased to yield to my colleague from Wisconsin.

Mr. FEINGOLD. Mr. President, in talking about States rights, we just heard about the importance of allowing the States to make the decision for themselves. I cannot help but think a little bit about the fact the way the death penalty has been imposed in this country and who is most likely to be executed as a result of this. Is not it the case that it is most likely to be members of racial minority groups—and in this case children—who will be the ones who will suffer if we do not ban this practice?

Mr. SIMON. There is no question about that. That is why, frankly, I oppose capital punishment, period, because it is disproportionately African-Americans, Hispanic-Americans, and native Americans who get the death penalty.

I would add one other point that I think is important. It is entirely people of limited means. If you have enough money to hire a good attorney, a high-priced attorney, you are not going to get the death penalty, period.

If we want to impose that on people above the age of 18, I do not like it, but I know it is one of those things. But to do this to young people under the age of 18 I think is unconscionable.

Mr. President, if the Senator from Utah is willing to yield back his time, I am willing to yield back the time and go ahead and vote on it.

Mr. HATCH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HATCH. Are the yeas and nays ordered?

The PRESIDING OFFICER. They are not.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Does the Senator yield back the remaining time?

Mr. HATCH. I yield back the remainder of my time.

Mr. SIMON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the motion to lay on the table the amendment of the Senator from Illinois. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arizona [Mr. DECONCINI], the Senator from Indiana [Mr. DORGAN], the Senator from Hawaii [Mr. INOUYE], and the Senator from Alabama [Mr. SHELBY], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Georgia [Mr. COVERDELL], the Senator from Texas [Mrs. HUTCHISON], and the Senator from Mississippi [Mr. LOTT], are necessarily absent.

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

The result was announced—yeas 52, nays 41, as follows:

[Rollcall Vote No. 358 Leg.]

YEAS—52

Baucus	Gorton	Nickles
Bennett	Graham	Nunn
Bond	Gramm	Packwood
Breaux	Grassley	Pressler
Brown	Hatch	Pryor
Bryan	Heflin	Reid
Burns	Helms	Riegle
Byrd	Johnston	Roth
Cochran	Kassebaum	Sasser
Craig	Kempthorne	Simpson
D'Amato	Kerrey	Smith
Daschle	Lieberman	Specter
Dole	Lugar	Stevens
Domenici	Mack	Thurmond
Exon	Mathews	Wallop
Faircloth	McCain	Warner
Feinstein	McConnell	
Ford	Murkowski	

NAYS—41

Akaka	Durenberger	Metzenbaum
Biden	Feingold	Mikulski
Bingaman	Glenn	Mitchell
Boren	Gregg	Moseley-Braun
Boxer	Harkin	Moynihan
Bradley	Hatfield	Murray
Bumpers	Hollings	Pell
Campbell	Jeffords	Robb
Chafee	Kennedy	Rockefeller
Coats	Kerry	Sarbanes
Cohen	Kohl	Simon
Conrad	Lautenberg	Wellstone
Danforth	Leahy	Wofford
Dodd	Levin	

NOT VOTING—7

Coverdell	Hutchison	Shelby
DeConcini	Inouye	
Dorgan	Lott	

So the motion to lay on the table the amendment (No. 1132) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1131 TO AMENDMENT NO. 1030

The PRESIDING OFFICER. The question before the Senate now is amendment No. 1131.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT REQUEST—S. 1301

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, with the consent of the Republican leader, may at any time turn to the consideration of Calendar No. 224, S. 1301, the intelligence authorization bill; that the bill be considered under the following limitation: 30 minutes for debate on the bill, including the committee amendment, and three amendments to be offered by the managers on behalf of themselves and others, equally divided in the usual form; 2 hours and 10 minutes for the debate on Senator METZENBAUM's sense-of-the-Congress amendment regarding disclosure of the annual intelligence budget, with the time to be divided as follows: 75 minutes under Senator METZENBAUM's control, 45 minutes under Senator WARNER's control and 10 minutes under Senator SPECTER's control; that no other amendments or motions to recommit be in order; that upon third reading of the bill, the Intelligence Committee be discharged from further consideration of the House companion, H.R. 2330; that all after the enacting clause be stricken and the text of S. 1301, as amended, be substituted in lieu thereof; and that the Senate, without any intervening action or debate, vote on final passage of H.R. 2330, as amended; that upon the disposition of H.R. 2330, the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses and the Chair be authorized to appoint conferees; and that the Senate bill be indefinitely postponed at that time.

Mr. STEVENS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MITCHELL. Mr. President, I withdraw my request.

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. BIDEN. Mr. President, while I have some of our colleagues on the floor, let me tell them where we are on this bill. There are about 200 slots that have been reserved for amendments. Many of these amendments we do not have language for at this moment, and I expect, as always on a crime bill and other major pieces of legislation, some of these will evaporate as we move down the line.

But there are, as I count them, about 20 amendments at this point that look like they would take real, live votes. In a moment, I would like to read off some of those amendments and encourage the authors of those amendments to stick around a little bit now to see if we can get an agreement as to what order to bring these up.

In addition, we are going to now, most assuredly, have votes on at least one very controversial amendment. There will be an amendment offered on assault weapons. That will be offered, hopefully, sooner than later in the a.m. tomorrow or early afternoon. So I say to my friends, once we dispose of that amendment, one way or the other, we will have a much clearer reading of how the remainder of this bill is going to move.

Let me just suggest that there is a Boxer amendment on driver's licenses; a Kennedy amendment on clinic access; a Kerry amendment on the police corps; a Simon amendment on the death penalty; a Lieberman amendment on drug emergency areas; a Lieberman amendment on carjacking; a Lieberman amendment on rapid deployment services; a Dole amendment on gangs; a Moseley-Braun amendment on mandatory education in prisons—this is not an exclusive list, but these are amendments on which I am fairly confident we will not be able to reach agreement, not be able to clear them, and they will require votes.

A Wofford amendment on citizen policing; a Brown amendment on Federal prisons; a Chafee amendment on stalking; a Danforth amendment on police brutality; a Moseley-Braun amendment on women in prison and their children; a Gorton amendment on—I do not even know what it is on.

Mr. GORTON. Sexual predators.

Mr. BIDEN. Sexual predators, allowing a judge to keep someone in jail even after they served their sentence, which is the most novel thing I have heard in a long time.

A Grassley amendment on international child pornography; and a Hutchison amendment concerning the use of moneys for overtime—the use of moneys in this bill for community policing to pay overtime.

As I have gone down the list of a couple hundred amendments, they are the amendments which seem fairly clear on their face on which we are not going to reach agreement. So I ask those Senators, if they are willing to do what Senator BOXER and others have done, to enter into time agreements with us tonight so we can, in a rational fashion, try to stack these amendments tomorrow in order to have some reasonable prospect of how to order your day.

There is also an amendment of the Senator from Wisconsin relating to children and guns which, depending on the outcome of other things, may or may not be accepted or may or may not require a vote.

I urge Senators whose names I have mentioned to stay aroundand give the managers some idea of how much time they will require, and then we will see if we can get a UC agreement on some of those.

Mr. DOLE. Will the manager yield?

Mr. BIDEN. I will be happy to yield.

Mr. DOLE. While the majority leader is on the floor, I understand there is a function that would take from about 7:30 until 9. I am prepared to stay and offer my gang amendment. I am not sure the manager is able to be here.

Mr. BIDEN. I am able to be here.

Mr. DOLE. Maybe we can get people to stay and offer their amendments and then have the votes in the morning so we do not keep everybody here until 9 o'clock or after. I will stay here. I will offer my amendment. I think others will offer their amendments, and we will accomplish the same result without keeping a lot of people here.

Mr. BIDEN. I say to the Republican leader, I think that is a very good idea. I am prepared to do that. I will again ask anyone in the Chamber—I see some of the people whose names I mentioned—is there anyone in the Chamber who is willing to go with their amendment tonight, debate and enter a time agreement? Senator BROWN is. Is Senator LIEBERMAN prepared to? I beg your pardon, both Senator MOSELEY-BRAUN and my distinguished friend from Arizona have the same amendment. Is Senator CHAFEE prepared to go tonight as well?

I am sure I can say to the leader, we can do that. As he knows, we always get complete cooperation on these crime bills. So I am sure we can stack at least 10 or 12 votes for tomorrow morning at this rate. But, no, I am delighted to do that. I would like to do that and, with the permission of the leader, we will do that.

Mr. HATCH. Let us let people go then.

Mr. President, I would like very much to suggest, if we can do what is suggested by the Republican leader, that we start voting as early as 9 o'clock tomorrow morning.

Mr. KERRY. Mr. 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. 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 is now apparent, based on prior discussion, that it is not possible to have any further votes this evening, and therefore Senators who have amendments are encouraged to stay and offer those amendments.

It is now also clear from the private discussion that followed we cannot have any votes tomorrow morning, and therefore any votes would have to be stacked to occur beginning tomorrow afternoon after the caucuses.

I say to Senators that there are only 2 more days in session this week, and Senators should be prepared for very lengthy sessions tomorrow and Wednesday, very lengthy, late in the evening, if we hope to have any chance of making good progress on this bill and have any chance of completing our work prior to Thanksgiving.

Mr. DOLE. Will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. BYRD. Will the distinguished majority leader yield?

Mr. MITCHELL. Yes. The Republican leader——

Mr. DOLE. I will be happy to yield to the Senator from West Virginia.

Mr. BYRD. I thank the distinguished Republican leader.

I was merely rising to pose the question as to what time the cloture vote would occur tomorrow, on the motion that has been entered on cloture against the Interior appropriations bill?

Mr. MITCHELL. I was asked again this evening for additional time to debate the subject. I must express my personal view. I think that subject has been debated far more than is necessary. But I have proposed 1 hour this evening, 1 hour early tomorrow morning, and then to have the cloture vote at 12:15, and then to be followed by whatever votes are stacked on amendments to be debated tonight and in the morning.

Mr. BYRD. Mr. President, if the distinguished majority leader will yield further——

Mr. MITCHELL. Yes.

Mr. BYRD. I do not think any more than 30 minutes equally divided will be needed on that, and at any time that is convenient with the majority leader tomorrow as far as the overall program is concerned, it is perfectly agreeable with me as chairman of the Appropriations Subcommittee to proceed, but we will need to do something or else the rule will work itself and we will vote 1 hour after we come in.

Mr. MITCHELL. If we do not get agreement, that is precisely what would occur. It is my expectation that we will get an agreement.

Mr. BYRD. Very well. I thank the leader.

Mr. MITCHELL. I am pleased to yield to the Republican leader.

Mr. DOLE. Let me indicate we just had a meeting in the majority leader's office to try to accommodate a lot of people who want to depart here before Thanksgiving, and in order for that to happen, because of the problem we have tomorrow morning, it is going to be necessary that a number of Members either offer their amendments tonight—those that are going to require votes—or in the morning.

Mr. BIDEN. Both.

Mr. DOLE. Or both. That is probably better. Or, as the majority leader has indicated, there is only one way to make it up. You have to make it up late tomorrow night, late the next night, and I assume some have obligations on Thursday with Veterans Day. The majority leader loses the morning.

So I hope we can accommodate the wishes of the majority leader and the managers, and we will do our best to produce, not just produce votes—if we can take the amendments without votes, that is fine. But if there has to be a vote, we ought to make certain we do not have a bunch of quorum calls tonight and tomorrow morning.

Mr. MITCHELL. I thank my colleague.

Mr. DOLE. It is also fair to say that you might as well mark November 20, Saturday, because we will be in session.

Mr. MITCHELL. We will be, and if necessary on that Sunday as well.

Mr. BYRD. November 20. On that day I will be 27,760 days old. And I do not look a bit older than 25.

Mr. DOLE. That was the reason for the session, just a special tribute to the distinguished Senator.

[Laughter.]

Mr. BIDEN. Mr. President, I ask Senator KERRY, Senator LIEBERMAN, Senator REID, Senator GORTON, and Senator CHAFEE, all of whom indicated they were ready to debate amendments tonight, to please hold fast, and we will enter into a time agreement on their amendments within the next 5 minutes so we can debate them.

But we will get a time agreement so we know when people are going to be voting. The Senator from Arizona and the Senator from Illinois—we have an amendment that they have that we are prepared to agree to, that the majority is prepared to agree to. Do they wish to discuss the amendment? Why do I not yield to them, let them discuss their amendment, and proceed to it now.

Mr. HATCH. I would like to finish the mandatory minimum amendment. We have an agreement. I am going to go ahead with it.

Mr. BIDEN. I have no objection to that, if that is what the Republican manager would like to do. Let me make sure we have checked it out with staff.

Mr. HATCH. What I want to do is modify my amendment.

Mr. President?

The PRESIDING OFFICER. The Senator from Utah.

AMENDMENT NO. 1131, AS MODIFIED

Mr. HATCH. I send a modification to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

The amendment is so modified.

The amendment (No. 1131) as modified, is as follows:

(Purpose: To provide for increased mandatory minimum sentences for criminals using firearms and for life imprisonment without release for criminals convicted a third time, and to provide for flexibility in sentencing for certain nonviolent offenses in which a mandatory minimum term of imprisonment is imposed by law)

In the pending amendment strike all after the first word and insert the following:

Subtitle B—Mandatory Minimum Sentence Guidelines

SEC. 2911. FLEXIBILITY IN APPLICATION OF MANDATORY MINIMUM SENTENCE PROVISIONS IN CERTAIN CIRCUMSTANCES.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 3553 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(f) MANDATORY MINIMUM SENTENCE PROVISIONS.—

"(1) SENTENCING UNDER THIS SECTION.—In the case of an offense described in paragraph (2), the court shall, notwithstanding the requirement of a mandatory minimum sentence in that section, impose a sentence in accordance with this section and the sentencing guidelines and any pertinent policy statement issued by the United States Sentencing Commission.

"(2) OFFENSES.—An offense is described in this paragraph if—

"(A) the defendant is subject to a mandatory minimum term of imprisonment under section 401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960);

"(B) the defendant does not have—

"(i) more than 0 criminal history point under the sentencing guidelines; or

"(ii) any prior conviction, foreign or domestic, for a crime of violence against the person or drug trafficking offense that resulted in a sentence of imprisonment (or an adjudication as a juvenile delinquent for an act that, if committed by an adult, would constitute a crime of violence against the person or drug trafficking offense);

"(C) the offense did not result in death or serious bodily injury (as defined in section 1365) to any person—

"(i) as a result of the act of any person during the course of the offense; or

"(ii) as a result of the use by any person of a controlled substance that was involved in the offense;

"(D) the defendant did not carry or otherwise have possession of a firearm (as defined in section 921) or other dangerous weapon during the course of the offense and did not direct another person who possessed a firearm to do so and the defendant had no knowledge of any other conspiracy that involved possession of a firearm;

"(E) the defendant was not an organizer, leader, manager, or supervisor of others (as defined or determined under the sentencing guidelines) in the offense;

"(F) the defendant was nonviolent in that the defendant did not use, attempt to use, or

make a credible threat to use physical force against the person of another during the course of the offense; and

"(G) the defendant did not own the drugs, finance any part of the purchase, or sell the drugs.".

(b) HARMONIZATION.—

(1) IN GENERAL.—The United States Sentencing Commission—

(A) may make such amendments as it deems necessary and appropriate to harmonize the sentencing guidelines and policy statements with section 3553(f) of title 18, United States Code, as added by subsection (a), and promulgate policy statements to assist the courts in interpreting that provision; and

(B) shall amend the sentencing guidelines, if necessary, to assign to an offense under section 401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) to which a mandatory minimum term of imprisonment applies a guideline level that will result in the imposition of a term of imprisonment at least equal to the mandatory term of imprisonment that is currently applicable unless a downward adjustment is authorized under section 3553(f) of title 18, United States Code, as added by subsection (a).

(2) If the Commission determines that an expedited procedure is necessary in order for amendments made pursuant to paragraph (1) to become effective on the effective date specified in subsection (c), the Commission may promulgate such amendments as emergency amendments under the procedures set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100-182; 101 Stat. 1271), as though the authority under that section had not expired.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and any amendments to the sentencing guidelines made by the United States Sentencing Commission pursuant to subsection (b) shall apply with respect to sentences imposed for offenses committed on or after the date that is 60 days after the date of enactment of this Act. Notwithstanding any other provision of law, any defendant who has been sentenced pursuant to 3553(f) who is subsequently convicted of a violation of the Controlled Substances Act or any crime of violence for which imposition of a mandatory minimum term of imprisonment is required, he or she shall be sentenced to an additional 5 years imprisonment.

SEC. . INCREASED MANDATORY MINIMUM SENTENCES FOR CRIMINALS USING FIREARMS.

Section 924(c)(1) of title 18, United States Code, is amended by inserting after the first sentence the following: "Except to the extent a greater minimum sentence is otherwise provided by the preceding sentence or by any other provision of this subsection or any other law, a person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which a person may be prosecuted in a court of the United States, uses or carries a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—

"(A) be punished by imprisonment for not less than 10 years;

"(B) if the firearm is discharged, be punished by imprisonment for not less than 20 years; and

"(C) if the death of a person results, be punished by death or by imprisonment for not less than life.".

SEC. . MANDATORY MINIMUM PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS OR WHO USE MINORS IN DRUG TRAFFICKING ACTIVITIES.

(a) DISTRIBUTION TO PERSONS UNDER AGE 18.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a) (first offense) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age by a person 21 or more years of age shall be not less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence."; and

(2) in subsection (b) (second offense) by inserting after the second sentence "Except to the extent a greater sentence is otherwise authorized by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age by a person 21 or more years of age shall be a mandatory term of life imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b) by adding at the end the following: "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted under this subsection shall be not less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence."; and

(2) in subsection (c) (penalty for second offenses) by inserting after the second sentence the following: "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted under this subsection shall be a mandatory term of life imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence.".

SEC. . LIFE IMPRISONMENT WITHOUT RELEASE FOR DRUG FELONS AND VIOLENT CRIMINALS CONVICTED A THIRD TIME.

Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking "If any person commits a violation of this subparagraph or of section 418, 419, or 420 after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence." and inserting "If any person commits a violation of this subparagraph or of section 418, 419, or 420 (21 U.S.C. 859, 860, and 861) or a crime of violence after 2 or more prior convictions for a felony drug offense or crime of violence or for any combination thereof have become final, such person shall be sentenced to not less than a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph the term 'crime of violence' means an offense that is a felony punishable by a maximum term of imprisonment of 10 years or more and has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.".

Mr. HATCH. Mr. President, where we are right now is that we have worked together with both sides on this. Neither side is completely happy. Senator GRAMM is not totally pleased with this. Neither are Senators KENNEDY and SIMON. However, we believe it is a good compromise. We believe it will resolve the problems. I hope it does not have to lead to a vote. If it does, we will vote on it.

We believe we have made a very, very good effort to try to accommodate everybody and everyone's feelings on this matter.

I would like to have the amendment, the Hatch-Gramm-Dole amendment, agreed to tonight if we can.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I would like to ask the distinguished manager of the bill, is this the Gramm amendment as amended or perfected by Senator HATCH?

Mr. HATCH. This is the modified Hatch-Gramm-Dole amendment that accepts the basic Gramm amendment and provides for some flexibility with regard to the first-time offenders who have not pushed drugs in school and who have not been violent.

Mr. D'AMATO. I have no objection as it relates to those provisions whereby you give flexibility to first-time, nonviolent offenders as it relates to dealing drugs. I have heard that many of the judges have complained about lack of flexibility. I think it is important. I think it is fine.

But I do have as it relates to not having an opportunity to offer a gun amendment that the floor manager was well aware of, as it relates to imposing real mandatory sentences for those guns that come across State lines. I do not intend to be precluded as a result of the parliamentary situation that we find ourselves in and agree to passage of this without having an opportunity to offer my amendment. If I have to stay on the floor and object to our going further, believe me, I am prepared to do it.

Mr. HATCH. Parliamentary inquiry, Mr. President. Is there anything that would stop the distinguished Senator from New York from offering his amendment once this amendment is either adopted or voted up or down? It seems to me it would be totally in order for him to offer his amendment.

Mr. D'AMATO. It seems to me, if you might indulge me——

Mr. HATCH. Could I get an answer?

The PRESIDING OFFICER. The substitute amendment would still be in order.

Mr. HATCH. I acknowledge that the distinguished Senator from New York has an excellent amendment. And it is something that I hope will be adopted by the Senate as a whole. I would certainly support his amendment because he is very thoughtful and reflective on what needs to be done in this area. No one has tried to preclude him from offering his amendment.

Certainly, what we have done here today is try to bring both sides together on the mandatory minimum issue, which has been a very difficult and problematic issue as we have tried to resolve this bill.

But I do not see any way that it is going to stop the distinguished Senator from New York from sending his amendment to the desk later and see if we either accept it or vote on it.

Mr. D'AMATO. Let me suggest, if I do not have an opportunity, it seems to me, as pointed out to me by theParliamentarian, to amend the amendment that the underlying amendment, the Hatch amendment, dealt with, as Senator GRAMM's amendment, that I will be precluded from touching those sections, I think subsection 104. I would be precluded from doing that, as this would be dealing with sentences that are already dealt with.

I would suggest that maybe we spend a little time and work out and see to it that we do have an opportunity—that I have this opportunity. I withheld for a week from offering the gun amendment. After all, nobody is going to offer a gun amendment. Fine. I am not going to be bigger than the institution. I understand that.

But then when I find out that almost the identical language which would preclude me from putting forth an amendment which I think goes further, does more, and accomplishes something, then I have to say I am going to insist that I have the right to do that.

I am willing to work with the distinguished managers of the bill, but I want to make sure that I am not going to lose that opportunity. That is something I have not been assured of. I have to tell you, I waited patiently. I was down here on this floor a couple of days. I withheld. Then to come and find out that I find myself in the situation where I may not be able to, as the parliamentary situation they placed me in, then I am going to say that I will not agree to a time agreement, not as long as you have that gun amendment in that bill. If you have the gun amendment as part of that which precludes me from offering mine, then I am going to object.

Mr. HATCH. Parliamentary inquiry: Is the Senator precluded from doing what he would like to do by the Hatch-Gramm-Dole amendment? Would he be prevented from adding his amendment to the sections involved?

The PRESIDING OFFICER. The pending second-degree amendment would not preclude——

Mr. HATCH. That is my understanding: Nothing would preclude the Senator from New York from offering his amendment later on on any of the sections that he has mentioned. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. D'AMATO. Let me say——

Mr. HATCH. I ask unanimous consent that the distinguished Senators——

Mr. BIDEN. Reserving the right to object, I am not sure that I understand what is being requested here. So for the moment, I object to a unanimous-consent agreement. Particularly, is it required in order for the Senator to be able to do what he wishes to do? I want to figure out what is going on.

I yield the floor.

Mr. FORD. 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. HATCH. 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. HATCH. Mr. President, I ask unanimous consent that we temporarily set aside the Hatch-Gramm-Dole amendment, so that the distinguished Senator from Arizona can call up his amendment.

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

AMENDMENT NO. 1133

(Purpose: To encourage parents to assume greater responsibility for preventing their children from engaging in illegal activity)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 1133.

Mr. McCAIN. 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 in the bill, add the following:

"SEC. . PARENTAL ACCOUNTABILITY.

(a) IN GENERAL.—Chapter 43 of title 18, United States Code, is amended by adding at the end the following new section:

"SEC. 5043. CIVIL PENALTIES FOR PARENTS OF CERTAIN JUVENILE OFFENDERS.

(a) IN GENERAL.—(1) The parent or legal guardians of any juvenile charged with any violation of federal law shall attend all court proceedings involving the juvenile, and

(2) if the court finds that the legal guardian or guardians did not exercise reasonable care to control the juvenile,

(A) the legal guardian or guardians shall be ordered to perform the same community service sentence as required to be performed by the juvenile if such sentence is ordered, or

(B) may be ordered by the court to perform community service not to exceed 2 hours of service for each seven days of incarceration ordered for the juvenile if community service is not ordered to be performed by the juvenile.

(3) Paragraph (1) or (2) may be waived, in whole or in part, by the court if it deems that compliance with paragraphs (1) and (2) would result in undue hardship to the family of the juvenile.

(4) For the purpose of this section, the term "juvenile" means any person under 18 years of age.

AMENDMENT NO. 1134 TO AMENDMENT NO. 1133

Ms. MOSELEY-BRAUN. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Ms. MOSELEY-BRAUN] proposes an amendment numbered 1134.

Ms. MOSELEY-BRAUN. 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 beginning on line 9 and insert in lieu thereof the following:

"(2) Except as provided in subsection (b), the parents or legal guardians of a juvenile who has been convicted of a criminal offense under any Federal law may be liable to the United States for a civil penalty of not more than $10,000.

(b) EXERCISE OF PARENTAL RESPONSIBILITY.—The court may decline to enforce if it would cause undue hardship (a)(1) or to impose a fine under subsection (a)(2) if the court makes an affirmative determination that under the circumstances, the parents or legal guardians exercised reasonable care, supervision and control of the juvenile and counseled the juvenile that criminal activity is not acceptable.

(c) AMOUNT OF FINE.—

(1) MANDATORY MINIMUM.—In no case shall a fine imposed under subsection (a) be less than $100.

(2) FINANCIAL HARDSHIP.—In no case shall a fine imposed under subsection (a) be less than $500 unless the court makes a finding that a fine in that amount would impose a severe financial hardship on the family of the parent or legal guardians.

(3) If the court determines that the parents or legal guardians are not financially able to pay the fine immediately, the court may set a schedule by which the fine will be paid over time.

(d) COMMUNITY SERVICE OR PARENTING CLASSES IN LIEU OF CIVIL PENALTY.—A parent or legal guardian ordered to pay a civil penalty under this Section may petition the court to perform such community service or attend and successfully complete parenting classes, as the court determines to be appropriate, in lieu of the civil penalty.

(e) DEFINITIONS.—

(1) For the purposes of this section, the term "juvenile" means any person who is under 18 years of age.

(2) For the purpose of this section, the term "parent" means a biological or custodial parent who has legal responsibility for the juvenile at the time the crime was committed.

(f) TECHNICAL AMENDMENT.—The chapter analysis for chapter 403 of title 18, United States Code, is amended by adding at the end the following new item:

"5043. Civil penalties for parents of certain juvenile offenders.".

Mr. McCAIN. Mr. President, the amendment at the desk can be summarized in two words: parental accountability. Simply, it makes the parents accountable for crimes committed by their dependent children.

When an individual, juvenile or not, commits a crime, that individual must be made to pay back society for the wrongdoing. But in our society, we do not hold juveniles totally responsible for their actions. We also hold parents and legal guardians responsible for the actions of their children. Parents must take a greater role in their children's lives, and greater responsibility for their children's actions. This amendment furthers that goal.

This amendment would mandate that when any individual under the age of 18 is charged with breaking Federal law, the legal guardian or guardians of that individual must:

First, attend all court proceedings; and if the juvenile is convicted,

Second, pay a fine up to $10,000; or

Third, may petition the court to perform community service or attend and successfully complete parenting classes in lieu of a monetary fine.

Further, because many families in which a child commits a crime may be suffering from financial and social hardship, the amendment allows the court to waive, in whole or in part, the sanctions if compliance would result in an undue hardship to the family.

Mr. President, I had originally hoped to apply criminal penalties to parents who neglect their duty and allow their children to commit crimes. The first degree amendment at the desk does exactly that. However, due to constitutional concerns raised by some of my colleagues, Senator MOSLEY-BRAUN and I have offered a second degree amendment that meets constitutional muster and forces parents to assume a greater responsibility for preventing their children from engaging in illegal activity.

Mr. President, daily the media reports of young people under the age of 18 who join gangs, deal drugs, and treat death and killings as cavalier events. This is demonstrative proof that parents are neglecting their obligation to teach our children right from wrong.

The prevalence of gangs is growing. Gang violence is rising.

No area is safe. Drugs are omnipresent—not merely being used by young Americans, but being sold and marketed as a business by young Americans.

According to U.S. News & World Report, November 8, 1993:

Today, more than 3 million crimes a year are committed in or near the 85,000 U.S. public schools. * * * A University of Michigan study reports that 9 percent of eighth graders carry a gun, knife, or club to school at least once a month. In all, an estimated 270,000 guns go to school every day.

According to the article, in 1940, public school teachers rated the top disciplinary problems as: talking out of turn; chewing gum; making noise; running in the halls; cutting in line; dress code violations; and littering.

In 1990, public school teachers rated the top disciplinary problems as: drug abuse; alcohol abuse; pregnancy; suicide; rape; robbery; and assault.

Mr. President, we are watching the disintegration of our society. We simply cannot sit back and idly watch this happen.

On October 17, 1993, the Seattle Times headline read:

Age of violence—Youth Crime Is Rising Fast, And Everyone Is A Victim—More Children Are Killing Others, Or Themselves. Can Anything Be Done?

The article states that in 1991, according to the Washington State Department of Community Development, the number of violent crimes—assault, homicide, sexual assault—committed by 10 to 17 year-olds has doubled since 1981. Although people in this age group represent only 11 percent of the population, they committed at least 25 percent of all violent crimes in Washington State.

I do not in any way mean to single out Washington State. This is a national, not local, problem.

According to the Phoenix Gazette article entitled "Violent Juvenile Crimes on the Rise; Experts Blame Unfulfilled Emotional Needs of Children":

The FBI reports a 27 percent increase in violent juvenile crime in a decade since 1980. This increase crosses all racial, social, and economic boundaries.

Our youth did not become violent overnight. Our youth did not choose the gun as the tool of choice to solve their problems due to a change in the weather.

These problems are occurring because we are abrogating our responsibility to our children.

Mr. President, the people we represent back home know the unfortunate truth: the family is disintegrating. Parents allow their children to run around uncontrolled and without supervision or moral guidance.

The realities of the modern age may make it more difficult for parents to spend a great deal of time with their children. That is unfortunate, but in many cases it is reality.

But parents cannot be divested of their moral obligation to teach their children right from wrong. Values cannot be artificially imposed on children by society or the Government. Values can and should only be taught by parents. Justice will not prevail unless it is taught to our children.

Dr. Deborah Prothrow-Stith, a national expert on juvenile violence from Harvard University stated:

It's no longer enough to offer children an average stable family life. When [juveniles] have got this kind of aggressive consistent message that's made as attractive as it is, parents must actively counter it.

According to Hunter Hurst, Director of the National Center for Juvenile Justice in Pennsylvania:

Society can't just sit back and rely on police, public officials or public institutions to solve the problem. Parents need to get back to the basics and take care of their children.

That is exactly what this amendment encourages.

Mr. President, it is time for us to say to parents, you are responsible for your children. You cannot step back, give no guidance or moral leadership to your children and then say "society—now it's your problem." If parents are going to let our Nation's youth commit crime, then parents are going to be held responsible by a just and fair society.

This amendment does exactly that. When a young person takes from society, then the courts can make the parents perform community service to pay back our communities.

This is not a new or novel concept. If a young person breaks a store window, it is the parents who are held accountable and made to pay retribution. If a young person desires to enter into a contract, we mandate that the parents take responsibility and sign the contract. Why should we not then hold parents responsible when their child commits a crime?

This amendment also acts as a deterrent. If parents know that their child's activity in a gang or with drugs may result in their being punished, I wonder how many will turn a blind eye to these kinds of activities.

The concept for increased parental accountability has been promulgated by the Governor Symington, the Governor of Arizona. I believe that it is significant that this proposal originated with a state official.

While we are debating sweeping national policy issues, it is the local cop on the beat who is actually making a difference. It is the local city council member, county official, and State Governor who is truly confronting the problem of crime. It saddens me that far too often these hallowed marble walls that surround this body seem to cut it off from the reality of life back home.

Thus I charge my colleagues, listen to the local officials. Let us base our policies on their initiatives, tested in the laboratory of the streets, and use their knowledge. Let us pay attention to individuals such as Governor Symington and his good work embodied in his anticrime proposal. These local officials have told us that we must act, and act now. These people on the front

lines have told us to follow their lead: Pass a tough crime bill that punishes those who commit crimes and that stops our families from hemorrhaging.

I would hope this amendment would be readily accepted. The purpose of this amendment summarizes this issue perfectly—to "encourage parents to assume greater responsibility for preventing their children from engaging in illegal activity."

If we cannot hold parents accountable, then who can we?

I hope my colleagues will carefully consider that question and support this fair, simple amendment.

Mr. President, in summary, I thank the Senator from Illinois for her second-degree amendment to my amendment. I think it is an important addition. It is a privilege to work with her on this very important and critical issue on the crime bill.

Very briefly, the amendment of the Senator from Illinois will mandate that when any individual under the age of 18 that is charged with breaking Federal law, the legal guardian or guardians of that individual must attend all court proceedings. If the juvenile is convicted, they must pay a fine of up to $10,000, or may petition the court to perform community service or attend and successfully complete parenting classes in lieu of a monetary fine.

I yield to the Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, I thank the Senator from Arizona. We have worked well together with this concept. Essentially, it is a concept that calls for parental responsibility in the enforcement of our juvenile laws.

Essentially, this is a sanction that allows for us to use the law to bring parents into the process. So where a juvenile is charged with a crime, where there is a trial, the parents will be called on to participate in the trial. The parents will be called on to participate in the proceeding by themselves, and to—when appropriate—have responsibility for fines which may be waived in cases of undue hardship.

I urge the support of our colleagues for this parental responsibility legislation.

Mr. McCAIN. Mr. President, I again thank the Senator from Illinois. It has been a pleasure working with her. I will make an important point here. Everybody in America agrees that crime is a serious problem in our society. Everybody believes that the root cause of that is a breakdown of the family unit. What this amendment does is places responsibility on the parents of these children.

This amendment states that the responsibility for the actions of children lays in the laps of the parent. If we are going to restore the family unit, there are many steps we need to take. One of the most important is that we emphasize parental responsibility, and that is an area that we are all in agreement on. I again thank Senator MOSELEY-BRAUN for her help in this. I think she has made a significant contribution.

I understand this amendment is acceptable to the distinguished managers of the bill. I know they have many other things to do tonight. I would like to talk for a long time regarding this issue, and I know that the Senator from Illinois does, because crime committed by juveniles is affecting every aspect of my community and State, as it is hers. In the interest of time, however, I yield the floor, and I hope the managers of the bill will accept the amendment.

Mr. BIDEN. Mr. President, I understand what our distinguished colleagues are attempting to do. I think it is a worthwhile attempt. I am prepared to accept the amendment. But we should understand—and I know there is reason for the exception here—a significant number of children committing these crimes have no parents, and they are predators wandering the streets. We find, for example, in the city of New York, there are 175,000 drug-addicted children under the age of 17 who have no mother, no father, who in fact commit, on average, 200 crimes a year, and there is going to be no one to put in jail or to have community service for except these individuals. But it is a worthwhile and notable effort, as long as we do not overpromise what this will do; it will not do a whole lot, but it will do something positive. I am prepared to accept the amendment.

Mr. HATCH. Mr. President, I am also prepared to accept the amendment. I associate myself with the chairman of the committee. I appreciate what these two distinguished Senators are trying to do here this evening. I understand and I think it is a worthwhile amendment. I am prepared to accept it.

The PRESIDING OFFICER. The question is on the second-degree amendment.

The amendment (No. 1134) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on amendment No. 1133, as amended.

The amendment (No. 1133), as amended, was agreed to.

AMENDMENT NO. 1131

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

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

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, what is the parliamentary situation right now? Is it the Hatch-Gramm-Dole amendment?

The PRESIDING OFFICER. The Senator from Utah is correct.

Mr. HATCH. I urge adoption of the amendment.

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

The question is on agreeing to the amendment.

The amendment (No. 1131) was agreed to.

Mr. HATCH. 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. BIDEN. Mr. President, we now have an agreement from at least five individuals who are prepared to debate their amendments tonight, and we have time agreements. I am going to propound a unanimous-consent agreement relative to time. I ask that on the Dole amendment relating to gangs, there be 20 minutes equally divided in the usual form, with no second-degree amendments.

Mr. HATCH. Parliamentary inquiry. Has my underlying amendment been agreed to on the mandatory minimum?

The PRESIDING OFFICER. The underlying amendment of the Senator from Texas is still pending, which was No. 1130.

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

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

Mr. HATCH. Mr. President, I feel very good about what we are about to do next because we are going to move this bill even further along than we have up to now. This bill has the potential of becoming the best crime bill in history from the Federal Government's standpoint. Right now in my opinion it is. We are going to add some provisions that I think are going to make it even better.

AMENDMENT NOS. 1135 THROUGH 1139

Mr. HATCH. Mr. President, I send to the desk a package of amendments and ask for its immediate consideration en bloc.

The PRESIDING OFFICER. Without objection the pending amendment will be set aside. The clerk will report.

The bill clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes amendments numbered 1135 through 1139.

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

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

The amendments are as follows:

AMENDMENT NO. 1135

Strike Title II and insert the following:

TITLE II—DEATH PENALTY

SEC. 201. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1993".

SEC. 202. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18, United States Code, is amended by inserting after chapter 227 the following new chapter:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
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"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381;

"(2) an offense described in section 1751(c), if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to intentionally kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(3) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(C) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(D) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense.

"§ 3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider any mitigating factor, including the following:

"(1) IMPAIRED CAPACITY.—The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) MINOR PARTICIPATION.—The defendant is punishable as a principal in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) EQUALLY CULPABLE DEFENDANTS.—Another defendant or defendants, equally culpable in the crime, will not be punished by death.

"(5) NO PRIOR CRIMINAL RECORD.—The defendant did not have a significant prior history of other criminal conduct.

"(6) DISTURBANCE.—The defendant committed the offense under severe mental or emotional disturbance.

"(7) VICTIM'S CONSENT.—The victim consented to the criminal conduct that resulted in the victim's death.

"(8) OTHER FACTORS.—Other factors in the defendant's background, record, or character or any other circumstance of the offense that mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(1), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist:

"(1) PRIOR ESPIONAGE OR TREASON OFFENSE.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of either life imprisonment or death was authorized by law.

"(2) GRAVE RISK TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security.

"(3) GRAVE RISK OF DEATH.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (2) or (3), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist:

"(1) DEATH DURING COMMISSION OF ANOTHER CRIME.—The death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 32 (destruction of aircraft or aircraft facilities), section 33 (destruction of motor vehicles or motor vehicle facilities), section 36 (violence at international airports), section 351 (violence against Members of Congress, Cabinet officers, or Supreme Court Justices), an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1203 (hostage taking), section 1992 (wrecking trains), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958 (49 U.S.C. 1472 (i) or (n)) (aircraft piracy).

"(2) INVOLVEMENT OF FIREARM OR PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—For any offense, other than an offense for which a sentence of death is sought on the basis of section 924(c), the defendant—

"(A) during and in relation to the commission of the offense or in escaping or attempting to escape apprehension used or possessed a firearm (as defined in section 921); or

"(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than 1 year, involving the use or attempted or threatened use of a firearm (as defined in section 921) against another person.

"(3) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of 2 or more Federal or State offenses, punishable by a term of imprisonment of more than 1 year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to 1 or more persons in addition to the victim of the offense.

"(6) HEINOUS, CRUEL, OR DEPRAVED MANNER OF COMMITTING OFFENSE.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism.

"(10) CONVICTION FOR TWO FELONY DRUG OFFENSES.—The defendant has previously been convicted of 2 or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) CONVICTION FOR SERIOUS FEDERAL DRUG OFFENSES.—The defendant had previously been convicted of violating title II or III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise.

"(13) CONTINUING CRIMINAL ENTERPRISE INVOLVING DRUG SALES TO MINORS.—The defendant committed the offense in the course of engaging in a continuing criminal enterprise in violation of section 408(c) of the Controlled Substances Act (21 U.S.C. 848(c)), and that violation involved the distribution of drugs to persons under the age of 21 in violation of section 418 of that Act (21 U.S.C. 859).

"(14) HIGH PUBLIC OFFICIALS.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A), if the official is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he or she is engaged in the performance of his or her official duties;

"(ii) because of the performance of his or her official duties; or

"(iii) because of his or her status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution or adjudication of an offense, and includes those engaged in corrections, parole, or probation functions.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, the attorney shall, a reasonable time before the trial or before acceptance by the court of a plea of guilty, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family, and may include oral testimony, a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim and the victim's family, and any other relevant information. The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits. The defendant may present any information relevant to a mitigating factor. The government may present any information relevant to an aggravating factor for which notice has been provided under subsection (a). Information is admissible regardless of its admissibility under the rules governing admission of evidence at criminal trials except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by 1 or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(1), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (2) or (3), an aggravating factor required to be considered under section 3592(c) is found to exist,

the jury, or if there is no jury, the court, shall consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether the defendant should be sentenced to death, to life imprisonment without possibility of release or some other lesser sentence.

"(f) SPECIAL PRECAUTION TO ENSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon a recommendation under section 3593(e) that the defendant should be sentenced to death or life imprisonment without possibility of release, the court shall sentence the defendant accordingly. Otherwise, the court shall impose any lesser sentence that is authorized by law. Notwithstanding any other law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without possibility of release.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) The court of appeals shall address all substantive and procedural issues raised on the appeal of a sentence of death, and shall consider whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor and whether the evidence supports the special finding of the existence of an aggravating factor required to be considered under section 3592.

"(2) Whenever the court of appeals finds that—

"(A) the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(B) the admissible evidence and information adduced does not support the special finding of the existence of the required aggravating factor; or

"(C) the proceedings involved any other legal error requiring reversal of the sentence that was properly preserved for appeal under the rules of criminal procedure,

the court shall remand the case for reconsideration under section 3593 or imposition of a sentence other than death. The court of appeals shall not reverse or vacate a sentence of death on account of any error which can be harmless, including any erroneous special finding of an aggravating factor, where the government establishes beyond a reasonable doubt that the error was harmless.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) IN GENERAL.—A person who has been sentenced to death pursuant to this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of the State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does provide for the implementation of a sentence of death, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) PREGNANT WOMAN.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) MENTAL CAPACITY.—A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability, lacks the mental capacity to understand the death penalty and why it was imposed on that person.

"§ 3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections, the United States Department of Justice, the Federal Bureau of Prisons, or the United States Marshals Service, and no employee providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any prosecution or execution under this section if such participation is contrary to the moral or religious convictions of the employee. In this subsection, 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.

"§ 3598. Special provisions for Indian country

"Notwithstanding sections 1152 and 1153, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to a capital sentence under this chapter for any offense the Federal jurisdiction for which is predicated solely on Indian country (as defined in section 1151 of this title) and which has occurred within the boundaries of Indian country, unless the governing body of the tribe has elected that this chapter have effect over land and persons subject to its criminal jurisdiction.".

(b) TECHNICAL AMENDMENT.—The part analysis for part II of title 18, United States Code, is amended by inserting after the item relating to chapter 227 the following new item:

"228. Death sentence ..... 3591".

SEC. 203. SPECIFIC OFFENSES FOR WHICH DEATH PENALTY IS AUTHORIZED.

(a) CONFORMING CHANGES IN TITLE 18.—Title 18, United States Code, is amended as follows:

(1) AIRCRAFT AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life", inserting a period, and striking the remainder of the section.

(2) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(3) EXPLOSIVE MATERIALS.—(A) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(B) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(C) Section 844(i) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(4) MURDER.—The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(5) KILLING OF FOREIGN OFFICIAL.—Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(6) KIDNAPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(7) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(8) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section, shall be punished—

"(1) by imprisonment for any term of years or for life; or

"(2) if the conduct constitutes an attempt to intentionally kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President, by death or imprisonment for any term of years or for life.".

(9) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life", inserting a period, and striking the remainder of the section.

(10) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(11) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(12) MURDER FOR HIRE.—Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(13) RACKETEERING.—Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(14) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, by death or imprisonment for

life and a fine of not more than $1,000,000, or both;".

(15) CARJACKING.—Section 2119(3) of title 18, United States Code, is amended by striking the period after "both" and inserting ", or sentenced to death.".

(b) CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.—Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473) is amended by striking subsection (c).

SEC. 204. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

Chapter 228 of title 18, United States Code, as added by this title, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 205. DEATH PENALTY FOR MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1118. Murder by a Federal prisoner

"(a) OFFENSE.—A person who, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, commits the murder of another shall be punished by death or by life imprisonment.

"(b) DEFINITIONS.—In this section—

"'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house.

"'murder' means a first degree or second degree murder (as defined by section 1111).

"'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Murder by a Federal prisoner.".

SEC. 206. DEATH PENALTY FOR CIVIL RIGHTS MURDERS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5) by inserting ", or may be sentenced to death" after "or for life".

(d) DAMAGE TO RELIGIOUS PROPERTY; OBSTRUCTION OF THE FREE EXERCISE OF RELIGIOUS RIGHTS.—Section 247(c)(1) of title 18, United States Code, is amended by inserting ", or may be sentenced to death" after "or both".

SEC. 207. DEATH PENALTY FOR THE MURDER OF FEDERAL LAW ENFORCEMENT OFFICIALS.

Section 1114(a) of title 18, United States Code, is amended by striking "punished as provided under sections 1111 and 1112 of this title," and inserting "punished, in the case of murder, by a sentence of death or life imprisonment as provided under section 1111, or, in the case of manslaughter, a sentence as provided under section 1112.".

SEC. 208. NEW OFFENSE FOR THE INDISCRIMINATE USE OF WEAPONS TO FURTHER DRUG CONSPIRACIES.

(a) SHORT TITLE.—This section may be cited as the "Drive-By Shooting Prevention Act of 1993".

(b) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 36. Drive-by shooting

"(a) DEFINITION.—In this section, 'major drug offense' means—

"(1) a continuing criminal enterprise punishable under section 403(c) of the Controlled Substances Act (21 U.S.C. 848(c));

"(2) a conspiracy to distribute controlled substances punishable under section 406 of the Controlled Substances Act (21 U.S.C. 846) section 1013 of the Controlled Substances Import and Export Control Act (21 U.S.C. 963); and

"(3) an offense involving major quantities of drugs and punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) or section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)).

"(b) OFFENSE AND PENALTIES.—(1) A person who, in furtherance or to escape detection of a major drug offense and with the intent to intimidate, harass, injure, or maim, fires a weapon into a group of two or more persons and who, in the course of such conduct, causes grave risk to any human life shall be punished by a term of no more than 25 years, by fine under this title, or both.

"(2) A person who, in furtherance or to escape detection of a major drug offense and with the intent to intimidate, harass, injure, or maim, fires a weapon into a group of 2 or more persons and who, in the course of such conduct, kills any person shall, if the killing—

"(A) is a first degree murder (as defined in section 1111(a)), be punished by death or imprisonment for any term of years or for life, fined under this title, or both; or

"(B) is a murder other than a first degree murder (as defined in section 1111(a)), be fined under this title, imprisoned for any term of years or for life, or both.".

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following new item:

"36. Drive-by shooting.".

SEC. 209. FOREIGN MURDER OF UNITED STATES NATIONALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1118. Foreign murder of United States nationals

"(a) DEFINITION.—In this section, 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"(b) OFFENSE.—A person who, being a national of the United States, kills or attempts to kill a national of the United States while such national is outside the United States but within the jurisdiction of another country shall be punished as provided under sections 1111, 1112, and 1113.

"(c) LIMITATIONS ON PROSECUTION.—(1) No prosecution may be instituted against any person under this section except upon the written approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, which function of approving prosecutions may not be delegated. No prosecution shall be approved if prosecution has been previously undertaken by a foreign country for the same conduct.

"(2) No prosecution shall be approved under this section unless the Attorney General, in consultation with the Secretary of State, determines that the conduct took place in a country in which the person is no longer present, and the country lacks the ability to lawfully secure the person's return. A determination by the Attorney General under this paragraph is not subject to judicial review.".

(b) TECHNICAL AMENDMENTS.—(1) Section 1117 of title 18, United States Code, is amended by striking "or 1116" and inserting "1116, or 1118".

(2) The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Foreign murder of United States nationals.".

SEC. 210. DEATH PENALTY FOR RAPE AND CHILD MOLESTATION MURDERS.

(a) OFFENSE.—Chapter 109A of title 18, United States Code, is amended—

(1) by redesignating section 2245 as section 2246; and

(2) by inserting after section 2244 the following new section:

"§ 2245. Sexual abuse resulting in death

"A person who, in the course of an offense under this chapter, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

(b) TECHNICAL AMENDMENTS.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by striking the item for section 2245 and inserting the following:

"2245. Sexual abuse resulting in death.

"2246. Definitions for chapter.".

SEC. 211. DEATH PENALTY FOR SEXUAL EXPLOITATION OF CHILDREN.

Section 2251(d) of title 18, United States Code, is amended by adding at the end the following: "Whoever, in the course of an offense under this section, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

SEC. 212. MURDER BY ESCAPED PRISONERS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, as amended by section 109(a), is amended by adding at the end the following new section:

"§ 1119. Murder by escaped prisoners

"(a) DEFINITION.—In this section, 'Federal prison' and 'term of life imprisonment' have the meanings stated in section 1118.

"(b) OFFENSE AND PENALTY.—A person, having escaped from a Federal prison where the person was confined under a sentence for a term of life imprisonment, kills another shall be punished as provided in sections 1111 and 1112.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, as amended by section 109(b)(2), is amended by adding at the end the following new item:

"1119. Murder by escaped prisoners.".

SEC. 213. DEATH PENALTY FOR GUN MURDERS DURING FEDERAL CRIMES OF VIOLENCE AND DRUG TRAFFICKING CRIMES.

Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(1) A person who, in the course of a violation of subsection (c), causes the death of a person through the use of a firearm, shall—

"(1) if the killing is a murder (as defined in section 1111), be punished by death or by imprisonment for any term of years or for life; and

"(2) if the killing is manslaughter (as defined in section 1112), be punished as provided in that section.".

SEC. 214. HOMICIDES AND ATTEMPTED HOMICIDES INVOLVING FIREARMS IN FEDERAL FACILITIES.

Section 930 of title 18, United States Code, is amended—

(1) by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively;

(2) in subsection (a) by striking "(c)" and inserting "(d)"; and

(3) by inserting after subsection (b) the following new subsection:

"(c) A person who kills or attempts to kill any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, shall be punished as provided in sections 1111, 1112, and 1113.".

SEC. 215. MURDER IN COURSE OF ALIEN SMUGGLING.

Section 274(a) of the Immigration and Naturalization Act (8 U.S.C. 1324) is amended by inserting before the period at the end the following: ": *Provided further*, That if during and in relation to an offense described in paragraph (1) the person causes serious bodily injury to, or places in jeopardy the life of, any alien, such person shall be subject to a term of imprisonment of not more than 20 years, and if the death of any alien results, shall be punished by death or imprisoned for any term of years or for life.".

AMENDMENT NO. 1136

(Purpose: To limit participation in the drug court program under title XI of the bill to nonviolent offenders)

On page 260, strike line 15 and all that follows through page 262, line 11, and insert the following:

SEC. 1201. COORDINATED ADMINISTRATION OF PROGRAMS.

APPLICATION.—The Attorney General may establish a unified or coordinated process for applying for grants under parts T, U, and V of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as added by this title. In addition to any other requirements that may be specified by the Attorney General, an application for a grant under any provision of this title shall—

(1) include a long-term strategy and detailed implementation plan;

(2) explain the applicant's inability to fund the program adequately without Federal assistance;

(3) certify that the Federal support provided will be used to supplement, and not supplant, State and local sources of funding that would otherwise be available;

(4) identify related governmental and community initiatives which complement or will be coordinated with the proposal;

(5) certify that there has been appropriate coordination with all affected agencies;

(6) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support; and

(7) certify that no violent offenders will be eligible or allowed to participate in the program authorized under part U.

(b) REGULATORY AUTHORITY.—

(1) IN GENERAL.—The Attorney General shall issue regulations and guidelines to carry out the programs authorized by this title, including specifications concerning application requirements, selection criteria, duration and renewal of grants, evaluation requirements, matching funds, limitation of administrative expenses, submission of reports by grantees, recordkeeping by grantees, and access to books, records, and documents maintained by grantees or other persons for purposes of audit or examination.

PROHIBITION OF PARTICIPATION BY VIOLENT OFFENDERS.—The Attorney General shall—

(A) issue regulations and guidelines to ensure that the programs authorized under part U of this title do not permit participation by violent offenders; and

(B) immediately suspend funding for any grant under this title if the Attorney General finds that violent offenders are participating in any program funded under part U.

TECHNICAL ASSISTANCE AND EVALUATION.—The Attorney General may provide technical assistance to grantees under the programs authorized by this title. The Attorney General may carry out, or arrange by grant or contract or otherwise for the carrying out of, evaluations or programs receiving assistance under the programs authorized by this title, in addition to any evaluations that grantees may be required to carry out pursuant to subsection (b).

USE OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this section or other provisions of this title, or in coordinating activities under the programs authorized by this title.

GAO STUDY.—

IN GENERAL.—The Comptroller General of the United States shall study and assess the effectiveness and impact of grants authorized by this title and report to Congress the results of the study on or before January 1, 1997.

(2) DOCUMENTS AND INFORMATION.—The Attorney General and grant recipients shall provide the Comptroller General with all relevant documents and information that the Comptroller General deems necessary to conduct the study under paragraph (1), including the identities and criminal records of program participants.

(3) CRITERIA.—In assessing the effectiveness of the grants made under programs authorized by this title, the Comptroller General shall consider, among other things—

(A) recidivism rates of program participants;

(B) completion rates among program participants;

(C) drug use by program participants; and

(D) the costs of the program to the criminal justice system.

(f) DEFINITION.—In this title, "violent offender" means a person charged with or convicted of an offense (or charged with or adjudicated as a delinquent by reason of conduct that, if engaged in by an adult would constitute an offense), during the course of which offense of conduct—

(1) the person carried, possessed, or used a firearm or dangerous weapon;

(2) there occurred the death of or serious bodily injury to any person; or

(3) there occurred the use of force against the person of another

without regard to whether any of the circumstances described in paragraph (1), (2), or (3) is an element of the offense or conduct of which or for which the person is charged, convicted, or adjudicated as a deliquent.

Mr. HATCH. Mr. President, the Democrat's crime bill proposes spending $1.2 billion on a drug courts program. The proposal is essentially three separate State grant programs which will be coordinated by the Attorney General.

These grant programs would fund drug testing on arrest programs, residential drug treatment programs, and alternative sanctions for young offenders. The Attorney General is required to coordinate the distribution of these grants so that efforts similar to the Miami/Dade County's drug court will be funded. The Miami program was pioneered by Janet Reno. The Miami program assigns drug cases to one or two special courtrooms, where offenders, who are called clients, are assigned treatment for their drug problem rather than punishment.

As a general matter, the Democrat bill stresses expanded drug treatment as opposed to additional prison construction. 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 the peaceful, law-abiding people of this Nation that we have adequate prison space to back up the sentences we impose. Furthermore, I do not believe that all criminals with drug problems are treatable. While I believe there is a role for treatment in combating drug related crime, we must bear in mind that treatment's proven effectiveness is limited. Nearly one in four State prison inmates have participated in a drug treatment program before entering prison. [Bureau of Justice Statistics, Survey of State Prison Inmates, 1991.]

I must concede that I am suspicious of programs which propose treatment as a complete alternative to prison. Unless these drug court programs are carefully monitored, we run the risk of letting soft-headed, self-proclaimed experts on drug policy take drug crimes completely out of the criminal justice system. Alternatively, we risk turning our courts into social service bureaus through which drug addicts are recycled.

I have several other reservations about the proposed drug courts program. I am concerned that the programs might be ripe for abuse. Many experts believe that offenders will repeatedly try to use the treatment programs to avoid prison. Indeed, Miami's program has a certain degree of failure—that is, recidivism—built in. The offenders are expected to continue to use drugs.

Additionally, the effectiveness of drug treatment programs, and drug courts in general, is still unproven and largely anecdotal. At least 40 percent of offenders completing the program in Dade County, Florida, has been rearrested. And these recidivism rates do not include those offenders who do not successfully complete the drug court program. [Washington Post, February 20, 1993.] Moreover, since an offender's record is wiped clean pursuant to the Miami program, it is very difficult to determine whether the programs have any positive effect at all.

My concerns are supported by some criminal defense attorneys. As one well known defense attorney recently said,

"These drug programs don't work. The success rate is very poor—probably because you throw the offenders back into the same environment where they came from, where everybody's doing drugs." [Legal Times, March 1, 1993 quoting Greta Van Susteren of DC.'s Coale, Allen, & Van Susteren.]

In addition to my concerns about the effectiveness of these programs, I am concerned that violent offenders will inevitably make their way into these drug court systems, further endangering society and eroding our criminal justice system's credibility.

As I understand the Democratic proposal, the drug courts established under this bill are intended to be limited to non-violent drug offenders. However, as originally drafted, the proposal does not bar nonviolent offenders. In fact, it requires that gang-related offenders be allowed to participate.

The drug court programs being proposed in some of our cities anticipate the participation of violent offenders. As proposed in some jurisdictions, such as the District of Columbia, drug courts could handle a broader range of offenders, including those arrested on non drug charges, but who are considered to have an underlying drug problem. [Legal Times, March 1, 1993.] The same holds true for the drug court program being instituted in Los Angeles. That program may be broadened to include more serious crimes than drug offenses and recidivists. [Los Angeles Times, May 17, 1993.] Thus, alternative sanctions—that is, punishment other than prison—could be available to violent criminals.

Currently, the jury is still out on alternative sanctions. Over 25 percent of all inmates assigned to halfway houses in the District of Columbia simply walk away. [The Washington Post, October 19, 1993.] Over a fourth of those who escape are never caught. Those who are caught are often arrested for other crimes. The poor capture rate is not surprising considering reports that it takes the corrections department an average of 9 weeks to obtain arrest warrants for escapees. [Washington Post, October 19, 1993.]

A number of recent high-profile crimes in the District of Columbia were committed by convicted criminals who were supposed to be in the District's halfway houses:

A 35-year-old man who escaped from a halfway house in June has been charged with a brutal videotaped robbery of a Korean-owned jewelry store in September. When the videotape aired on local news, many of us watched in horror as the suspects pistol whipped one victim and critically shot another.

A 22-year-old man, who had escaped from a halfway house in January, was charged in the August killing of a liquor store owner during a robbery.

In May, a 33-year-old man was charged with the kidnaping and rape of a 74-year-old Maryland woman 1 week after he walked away from his halfway house.

Despite my concerns, I recognize the link between drug abuse and crime. I support the need to treat drug dependent, nonviolent offenders. For this reason, I am willing to work with this administration on this drug court program. Yet, we cannot afford the prospect that violent or repeat offenders will be placed back out on the streets. Any federally sponsored drug courts program must expressly exclude the participation of violent offenders from the program.

The focus of the criminal justice system should be on keeping criminals—especially violent criminals—off the streets. If a proposal does not do this; indeed if it actually increases the chances that such criminals will stay on the streets, it should not be in the crime bill. Drug treatment programs, or so-called drug courts, should not be used to supplant incarceration for violent criminals who should be in prison. If the drug courts proposal is limited to nonviolent drug offenders as intended, it meets this test.

AMENDMENT NO. 1137

On page 276, line 7, strike "28" and insert "25".

AMENDMENT NO. 1138

(Purpose: To add provisions relating to drug control and rural crime and law enforcement personnel)

On page 308, strike line 2 and all that follows through page 310, line 7, and insert the following:

Subtitle A—Drug Trafficking in Rural Areas

SEC. 1401. AUTHORIZATIONS FOR RURAL LAW ENFORCEMENT AGENCIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(9) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(9) There are authorized to be appropriated to carry out part O $50,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998.".

(b) AMENDMENT TO BASE ALLOCATION.—Section 1501(a)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "$100,000" and inserting "$250,000".

SEC. 1402. RURAL CRIME AND DRUG ENFORCEMENT TASK FORCES.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, tne Attorney General, in consultation with the Governors, mayors, and chief executive officers of State and local law enforcement agencies, shall establish a Rural Crime and Drug Enforcement Task Force in each of the Federal judicial districts which encompass significant rural lands. Asset seized as a result of investigations initiated by a Rural Drug Enforcement Task Force shall be used primarily to enhance the operations of the task force and its participating State and local law enforcement agencies.

(b) TASK FORCE MEMBERSHIP.—The task forces established under subsection (a) shall be chaired by the United States Attorney for the respective Federal judicial district. The task forces shall include representatives from—

(1) State and local law enforcement agencies;

(2) the Drug Enforcement Administration;

(3) the Federal Bureau of Investigation;

(4) the Immigration and Naturalization Service;

(5) the Customs Service;

(6) the United States Marshals Service; and

(7) law enforcement officers from the United States Park Police, United States Forest Service and Bureau of Land Management, and such other Federal law enforcement agencies as the Attorney General may direct.

SEC. 1403. CROSS-DESIGNATION OF FEDERAL OFFICERS.

(a) IN GENERAL.—The Attorney General may cross-designate up to 100 law enforcement officers from each of the agencies specified under section 1502(b)(6) of the Omnibus Crime Control and Safe Streets Act of 1968 with jurisdiction to enforce the provisions of the Controlled Substances Act on non-Federal lands and title 18 of the United States Code to the extent necessary to effect the purposes of this Act.

(b) ADEQUATE STAFFING.—The Attorney General shall, subject to the availability of appropriations, ensure that each of the task forces established in accordance with this title are adequately staffed with investigators and that additional investigators are provided when requested by the task force.

SEC. 1404. RURAL DRUG ENFORCEMENT TRAINING.

(a) SPECIALIZED TRAINING FOR RURAL OFFICERS.—The Director of the Federal Law Enforcement Training Center shall develop a specialized course of instruction devoted to training law enforcement officers from rural agencies in the investigation of drug trafficking and related crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsection (a) $1,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998.

SEC. 1405. MORE AGENTS FOR THE DRUG ENFORCEMENT ADMINISTRATION.

There are authorized to be appropriated for the hiring of additional Drug Enforcement Administration agents $20,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998.

DRUG CONTROL AND RURAL CRIME

Mr. HATCH. Mr. President, more Federal attention needs to be given to rural America. More Federal agents and other special efforts are needed to support State and local enforcement efforts in rural America. A Judiciary Committee staff report issued last Congress found that in 13 rural States, including Utah, violent crime increased at a faster rate than in New York City.

Rural America is suffering through a plague of violent crime which, in many respects, exceeds that of our larger cities. For example, in 1991, FBI figures show that violent crime rose 35 percent faster in rural counties than it did in America's eight largest cities. According to these FBI statistics, a person stands a better chance of being raped or the victim of theft in Utah than he or she does in the District of Columbia, Los Angeles, or New York City. Still, the police presence in these cities far exceeds Utah's. For example, the District has four times as many police officers per capita than Utah. Plainly, these are alarming figures which demonstrate that rural America needs relief.

Utah has a growing problem of youth gangs, who are coming to Salt Lake City from California and bringing their drug and crime activity with them. According to Salt Lake City officials, drive-by shootings are more common and national gangs like the Bloods and the Crips are present.

We know that much of the crime and violence we face is fueled by illegal drugs. In addition to the pernicious effects on the individual who takes illegal drugs, drugs relate to crime in at least three ways: First, a drug user may commit crime because of drug-induced changes in physiological functions, cognitive ability, and mood; second, a drug user may commit crime in order to obtain money to buy drugs; and third, a violent crime may occur as part of the drug business or culture. See Goldstein, Drugs and Violent Crime, in "Pathways to Criminal Violence" 16, 24–36, N. Weiner, M. Wolfgang eds., 1989. Studies bear out these possibilities, and demonstrate a direct nexus between illegal drugs and crimes of violence. See generally id., at 16–48.

For example, 57 percent of a national sample of males arrested in 1989 for homicide tested positive for illegal drugs. National Institute of Justice, "1989 Drug Use Forecasting Annual Report" June 9, 1990. The comparable statistics for assault, robbery, and weapons arrests were 55, 73, and 63 percent, respectively. In New York City, in 1988, 90 percent of all male arrestees tested positive for drug use.

While I would think that most of us understand this link between crime and drugs, Mr. President, thus far, the Clinton administration, while talking about getting tough on crime, has been sending the signal that drug control is no longer a national priority. Mr. President, I think it should be.

When President Clinton was running for office he said, in recognition of the link between drugs and crime, that "we have a national problem on our hands that requires a tough national response." New York Times, March 26, quoting an earlier Clinton statement. This campaign rhetoric does not match the governing reality. Director Lee Brown, the President's own drug czar, has recently conceded that drugs are no longer at the top of the agenda as an issue. Washington Post, July 8.

The administration has been retreating in the drug war on too many fronts. While giving Director Brown a paper promotion to Cabinet level, this administration has slashed the drug czar's office to the bone—from 146 positions to 25. It has sought to cut funding in the drug war. It has recommended eliminating the Drug Enforcement Agency, which has a proven track record of success. Budget allocations for prosecutors have been reduced, prison construction is being cut, and it appears interdiction efforts will be cut back. The administration has been inadequate on both demand and supply reduction.

Finally the administration presented with great fanfare its so-called interim drug control strategy. Mr. President, it is a major disappointment, consisting largely of generalities and pitches for various Clintonadministration proposals like the National Service Plan. It is a placebo; a political document so general as to be unhelpful, and useful only to give the appearance of taking this issue as seriously as it should be.

Drugs and drug violence are problems that hit us all right at home. According to the Salt Lake Tribune, last year in my home State of Utah, where we have been subjected to increasing drug and gang presences, there were 6,673 drug-related arrests. One-fifth of those arrested for drugs last year were juveniles. Salt Lake Tribune, October 2. Our kids and our families are at risk, and we cannot afford not to invest the effort and resources necessary to win this war and end this scourge. And we must do it now.

A recent University of Michigan study demonstrates why. The study shows that the decline of drug use among our Nation's young people, which began during the Reagan-Bush years, has virtually halted and that marijuana and LSD use are on the rise. The New York Times reported that Dr. Lloyd Johnson, who headed up the research team, concluded that the study indicates a more tolerant attitude toward drugs and the possibility of a steep increase in drug abuse. New York Times, July 16. This study demonstrates the risk we face if we do not attack immediately and with resolve.

Mr. President, drugs, crime, and violence are national problems facing urban and rural America. Unfortunately, the crime problems faced in rural America have been overlooked by Federal agencies in Washington. They havefocused on the crime in more urban areas. Yet, rural States problems need greater Federal attention. The number of Federal prosecutors and law enforcement agents has been inadequate to handle the growing crime.

In addition, rural States have unique problems which make criminal investigations more difficult. For example, clandestine labs, especially methamphetamine, "ice" labs, present a big problem for rural authorities. According to DEA officials in Utah, a major center for these labs is Utah. In an 11-month period, DEA busted 15 such labs.

The Neighborhood Security Act of 1993, S. 1356, addresses the crime and drug problems faced by all of America—urban and rural—by assisting in the fight against drug traffickers and violent criminals. The bill does, however, provide a special focus on crime in rural areas. For example, the legislation:

Amends current State and local law enforcement grants program to authorize an additional $250 million in grants for rural States over 5 years.

Authorizes an additional $100 million over 5 years to hire additional DEA agents for drug investigations in rural and urban areas.

Directs the Attorney General to establish rural crime and drug enforcement task forces in every Federal judicial district that includes significant rural areas. Headed by the local U.S. attorneys, the task forces would include personnel from DEA, FBI, Customs, U.S. Park Police, U.S. marshals, and State andlocal law enforcement. These task forces would be required to coordinate activities to ensure that resources are used as effectively as possible.

Permits the Attorney General to cross-designate up to 100 law enforcement officers from the U.S. Park Police, U.S. Forest Service, Bureau of Land Management, and other law enforcement agencies to enforce Federal drug and criminal law in rural areas. Also, the section requires the Attorney General to ensure that the task forces are adequately staffed with investigators.

Establishes a specialized training program at the Federal Law Enforcement Training Center in Glynco, GA, to teach police officers and sheriffs from rural agencies the most effective methods of conducting drug trafficking investigations.

Requires that the assets forfeited by rural task forces be used to enhance the operations of the task force and participating State and local law enforcement agencies.

Mr. President, the protection of citizens is the first duty of government. If there is a place where Federal expenditures is warranted, it is to fight national crime and violence. I urge my colleagues to support the Neighborhood Security Act to help stop crime and violence in our cities and in our rural areas.

Mr. PRESSLER. Mr. President, we have seen significant progress made in the last couple of days toward giving the American people a truly significant, and no doubt historic, crime bill. When the scholars write the history of when this Nation turned the tide in stemming the violent crime wave undermining civility in this Nation, they may well begin with the actions the Senate has taken in recent days.

Of particular importance to me is the rural crime amendment, cosponsored by Senators HATCH, KEMPTHORNE, myself, and others, to the crime bill which addresses crime issues in rural areas. Too often when we look at fighting crime, the focus is on crime generated by conditions in urban areas. But rural areas are not immune from the ravages of crime.

According to the 1992 Uniform Crime Reports, the number of persons arrested for certain crimes is increasing

at a faster rate in rural counties than in suburban and urban counties. For example, the number of persons arrested for robbery increased 14.5 percent in rural counties. Arrests for the same offense in suburban counties and cities declined during the same period. Aggravated assaults increased 7.2 percent, a rate higher than in either suburban counties or cities. Sex offenses in rural counties over the past year increased 19.5 percent, a nearly fourfold rate over cities and suburban counties. Arrests for drug abuse in rural counties increased 22.5 percent from 1992 to 1993. This was nearly twice the rate in suburban areas and nearly four times the rate as in cities.

The facts are clear: serious crime problems exist in rural areas, particularly in the area of drugs. That is why I strongly support this important rural crime amendment now contained in the crime bill.

Let me explain how this amendment will help law enforcement authorities in fighting crime in rural areas. First, it calls for the establishment of rural crime and drug enforcement task forces in rural areas. These task forces, comprised of Federal, State, and local law enforcement authorities, will enable us to wage a coordinated and powerful attack against drug crime in rural areas.

Second, it ensures adequate staff assistance for these rural drug task forces. Creating a task force without the means to carry out its mission would be like hiring additional police without the means to fight crime. It would not be very effective.

Third, the rural crime amendment also provides that assets seized as a result of rural drug enforcement task force investigations will be used primarily to enhance the operation of these task forces. This will help these task forces to maintain their ability to stay ahead of the criminals by turning their own resources against them.

Rural America needs to have these rural crime provisions in the crime bill before the Senate. I am glad to join with my colleagues in cosponsoring this important amendment.

AMENDMENT NO. 1139

(Purpose: To authorize the Attorney General to make grants for improved training and technical automation)

On page 219, between lines 7 and 8, insert the following:

Subtitle D—Improved Training and Technical Automation

SEC. 1031. IMPROVED TRAINING AND TECHNICAL AUTOMATION.

(a) GRANTS.—

(1) IN GENERAL.—The Attorney General shall, subject to the availability of appropriations, make grants to units of State and local law enforcement for the purposes of improving law enforcement agency efficiency through computerized automation and technological improvements.

(2) TYPES OF PROGRAMS.—Grants under this section may include programs to—

(A) increase use of mobile digital terminals;

(B) improve communications systems;

(C) accomplish paper-flow reduction;

(D) establish or improve ballistics identification programs;

(E) increase the application of automated fingerprint identification systems and their communications on an interstate and intrastate basis and

(F) improve computerized collection of criminal records.

(3) No fund under this subtitle may be used to implement a cryptographic or digital telephone programs.

(b) TRAINING AND INVESTIGATIVE ASSISTANCE.—

(1) IN GENERAL.—The Attorney General shall, subject to the availability of appropriations—

(A) expand and improve investigative and managerial training courses for State and local law enforcement agencies; and

(B) develop and implement, on a pilot basis with no more than 10 participating cities, an intelligent information system that gathers, integrates, organizes, and analyzes information in active support of investigations by Federal, State, and local law enforcement agencies of violent serial crimes.

(2) IMPROVEMENT OF FACILITIES.—The improvement described in subsection (a) shall include improvements of the training facilities of the Federal Bureau of Investigation Academy at Quantico, Virginia.

(3) INTELLIGENT INFORMATION SYSTEM.—The intelligent information system described in paragraph (1)(B) shall be developed and implemented by the Federal Bureau of Investigation and shall utilize the resources of the Violent Criminal Apprehension Program.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1994—

(1) $100,000,000 to carry out subsection (a);

(2) $40,000,000 to carry out subsection (b)(1)(A); and

(3) $10,000,000 to carry out subsection (b)(2)(B).

QUANTICO/LAW ENFORCEMENT ASSISTANCE AMENDMENT

Mr. HATCH. Mr. President, I rise to offer an amendment which will bolster our effort in the Nation's war against crime and drugs by providing the Department of Justice with needed resources to improve law enforcement efficiency and training. The amendment authorizes $150 million for grants to States for computerized automation and technical improvements; expansion of investigative and managerial training for State and local law enforcement; and improved intelligence sharing in the investigation of violent serial crimes.

With skyrocketing deficits and a creeping erosion in our Government's financial stability, Congress needs to decide what its funding priorities are going to be. I believe that crime control is of paramount importance and that more resources need to be dedicated to the investigation, prosecution, and incarceration of violent criminals.

While we must spend more, we must also do what we can to improve the efficiency of existing law enforcement agencies and personnel. Inherent in this effort is providing local law enforcement with funds to improve communications systems, reduce paper flow, and encourage other technological improvements. I agree with my colleagues that we need to get more police out from behind their desks. But we must also make sure that they are adequately trained and that their respective departments benefit from the improved services and information sharing we all take for granted.

My amendment furthers these interests. First, it provides grants to State and local law enforcement to make technological improvements. The District of Columbia's Metropolitan Police Department still uses rotary dial phones. They are not adequately computerized. The same holds true for police departments all across the country. In an effort to help bring law enforcement into the information age, I worked with D.C. Police Chief Henry Thomas to craft a grant program which will provide law enforcement with some of the resources it needs to do so. This grant program provides $100 million for programs to improve law enforcement efficiency through technological improvements. Funds can be used to purchase mobil digital terminals, improve ballistics identification, reduce paper flow, and more.

My amendment also recognizes the need to continue the FBI's valuable role in training our Nation's law enforcement agencies. the amendment provides an additional $40 million to the FBI Academy at Quantico to improve its delivery of training and technical assistance to Federal, State, and local law enforcement. Over 26,000 State and local law enforcement officers, including several officers from Utah, have graduated from the National Academy. Last year alone, over 1,040 State and local law enforcement officials graduated from the National Academy. These men and women returned to their respective agencies and have enhanced the quality of investigative and operation techniques of law enforcement. The academy also provides, at regional locations, specialized and technical training to approximately 150,000 police officers everyyear. Virtually every community in America benefits directly from the training conducted at the National Academy.

At Quantico, the FBI also runs the National Executive Institute which trains new police executives, chiefs, commanders, and other high level administrators, on important management techniques. Chief Ruben Ortega of the Salt Lake City Police Department attended the National Executive Institute and has told me that it is one of the finest management law enforcement programs he has ever participated in. Chief Ortega shares my view that the FBI, through its various training programs at Quantico, has improved the efficiency and quality of police departments nationwide.

Finally, my amendment provides $10 million to the Department of Justice to develop and implement an artificial intelligence system to help Federal, State, and local law enforcement investigate violent serial crimes. The National Center for the Analysis of Violent Crime, through its VICAP program [Violent Criminal Apprehension Program], is blazing new trails into the field of law enforcement behavioral sciences. Their expertise is profiling and assisting the States in their investigation of serial crimes is unmatched.

My amendment directs the Department to build upon the work being done by the center. The amendment establishes a pilot program which will consolidate the knowledge and expertise of those who work in this field into an artificial intelligence system which can better provide investigative support to State and local officials investigating violent serial crimes. At the outset, only 10 cities will participate. If it works, and I believe it will, the program could be expanded nationwide.

I believe that we must begin to link the abilities and resources of our serial crime investigators at the State level. We must improve the delivery of the intelligence and expertise which has been endowed upon the national center. In my view, for a relatively small investment, the national center has the potential to prevent an untold number of serial crimes and assist in the apprehension of those responsible for these reprehensible crimes.

In closing, this amendment is an investment for the future. The Hatch amendment furthers the interest of improving the efficiency, training, and delivery of services of our Nation's nearly 550,000 police officers.

For these reasons, I urge my colleagues to support this amendment.

Mr. President, this package of amendments includes the following.

No. 1, a Biden-Hatch amendment (No. 1135) which improves the death penalty procedures.

No. 2, a Hatch amendment (No. 1136) to prohibit violent offenders from participating in the drug courts program.

No. 3, a Hatch amendment (No. 1137) to lower the age of eligible participants in the drug courts alternative sanctions program from individuals who are 28 or younger to 25 or younger.

No. 4, a Hatch-Biden-Pressler-Kempthorne-Leahy amendment (No. 1138) on—I understand Senator LEAHY is on that—am I right on that? A Hatch-Pressler-Kempthorne amendment on rural crime control.

And, No. 5, a Hatch amendment (No. 1139) on funding for technological improvements for law enforcement, for improvements to Quantico and a pilot serial crimes program.

Mr. President, these are excellent amendments that I think will strengthen this package. In particular, we have worked hard to improve the death penalty procedures, and I want to compliment my distinguished colleague from Delaware for his energetic and very persuasive improvements and approaches to this particular subject. We have worked hard, I think, to bring both sides together. I believe this amendment does it.

With regard to amendment No. 2, the same thing applies; the same with amendment No. 3.

The rural crime control amendment is one I am particularly proud of because we have rural crime all over this country and we are not giving much, other than lip service, to it. This amendment will provide for a whole raft of help to people in the rural areas and to State anticrime facilities and personnel in rural areas, to help bring down rural crime and keep it under control.

With regard to No. 5, the amendment for technological improvements for law enforcement and for improvements at Quantico, the Quantico Police Academy is the single most important police academy training program for law enforcement officials all over the world. It is a unique program. They have their own city down there. They need to have their own courts, their own jails, everything to provide for actual training of law enforcement personnel in how to handle all kinds of situations as they arise.

In addition, the pilot serial crimes program, which applies to the psychiatric section down there, is one of the most important programs I can think of, because that particular section is having a real, dramatic impact in helping State and local law enforcement people and Federal law enforcement people all over this country. So we provide for specific moneys from an authorizing standpoint to that as well.

It is about time that we have, because they are doing some remarkable things that can help to dampen some of the criminal activities in this country, and even in a greater way than they are right now.

So, Mr. President, I am very proud to submit this package. We are prepared to move this.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I will be very brief. Let me say the underlying Biden bill, the crime bill, has death penalties procedures changes in it, and safeguards built in. The Senator from Utah raised some legitimate concerns. We amended it in several ways.

Second, with regard to the drug courts, which is contained in the underlying bill, that is a $1 billion-plus piece of this bill. There are two amendments that clarify the intent of the drug court program, which I believe is already clear, but my colleague from Utah wanted to see some more clarification.

On rural crime, we have a major chunk for rural crime in the bill already, but under the leadership of the Senator from Utah, he has beefed it up considerably in terms of the moneys that are allocated to rural crime in particular, and the allocation to drug enforcement agencies to deal with the drug problem.

I think they are very valuable additions to the bill, also the law enforcement technology in Quantico. This is a brand new addition. I think the Senator is absolutely right. I think it should be in the bill.

I urge the package of the amendments that are before the Senate.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the en bloc amendments.

The amendments (Nos. 1135 through 1139) were agreed to en bloc.

Mr. HATCH. 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.

The PRESIDING OFFICER. The Republican leader is recognized.

AMENDMENT NO. 1140

(Purpose: To substitute provisions relating to gangs, juveniles, drugs, and prosecutors)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kansas [Mr. DOLE] for himself and Mr. HATCH, proposes an amendment numbered 1140.

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:

On page 114, strike line 11 and all that follows through page 126, line 13, and insert the following:

TITLE VI—GANGS, JUVENILES, DRUGS, AND PROSECUTORS

SEC. 601. SHORT TITLE.

This title may be cited as the "Anti-Gang and Youth Protection Act of 1993".

Subtitle A—Criminal Youth Gangs

SEC. 611. CRIMINAL STREET GANGS OFFENSES.

(a) OFFENSE.—Title 18, United States Code, is amended by inserting after chapter 93 the following new chapter:

"CHAPTER 94—PROHIBITED PARTICIPATION IN CRIMINAL STREET GANGS AND GANG CRIME

"Sec.
"1930. Crimes in furtherance of gangs.
"1931. Prohibited activity.
"1932. Penalties.
"1933. Investigative authority.

"§ 1930. Crimes in furtherance of gangs

"(a) FINDINGS.—The Congress makes the following findings:

"(1) Criminal street gangs have become increasingly prevalent and entrenched in our society in the last several decades. In many areas of the country, these gangs exert considerable control over other members of their community, particularly through the

use of violence and drugs. Criminal street gangs have also become more national in scope, extending their influence beyond the urban areas in which they originated.

"(2) The major activities of criminal street gangs are crimes of violence and the distribution and use of illegal drugs. It is through these activities that criminal street gangs directly affect interstate and foreign commerce, even when their particular activities, viewed in isolation, appear to be purely intrastate in character.

"(b) BASIS FOR CHAPTER.—On the basis of the findings stated in subsection (a), the Congress determines that the provisions of this chapter are necessary and proper for the purpose of carrying into execution the powers of Congress to regulate commerce and to establish criminal law.

"§ 1931. Prohibited activity

"(a) DEFINITIONS.—In this chapter—

"'criminal street gang' means an organization or group of 5 or more persons, whether formal or informal, who act in concert, or agree to act in concert, for a period in excess of 30 days, with a purpose that any of those persons alone, or in any combination, commit or will commit, 2 or more predicate gang crimes, 1 of which must occur after the date of enactment of this chapter and the last of which occurred within 10 years (excluding any period of imprisonment) after the commission of a prior predicate gang crime.

"'participate in a criminal street gang' means to act in concert with a criminal street gang with intent to commit, or with the intent that any other person associated with the criminal street gang will commit, 1 or more predicate gang crimes.

"'predicate gang crime' means—

"(A) any act or threat, or attempted act or threat, which is chargeable under Federal or State law and punishable by imprisonment for more than 1 year, involving murder, attempted murder, kidnapping, robbery, extortion, arson, obstruction of justice, tampering with or retaliating against a witness, victim, or informant, or manufacturing, importing, receiving, concealing, purchasing, selling, possessing, or otherwise dealing in a controlled substance or controlled substance analogue (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

"(B) any act punishable by imprisonment for more than 1 year under section 922 or 924 (a)(2), (b), (c), (g), or (h) (relating to receipt, possession, and transfer of firearms), section 1503 (relating to obstruction of justice), section 1510 (relating to obstruction of criminal investigations), section 1512 (relating to tampering with a witness, victim, or informant), or section 1513 (relating to retaliating against a witness, victim, or informant); or

"(C) any act punishable under subsection (b)(5).

"'State' means a State, the District of Columbia, and any commonwealth, territory, or possession of the United States.

"(b) UNLAWFUL ACTS.—It shall be unlawful—

"(1) to commit, or to attempt to commit, a predicate gang crime with intent to promote or further the activities of a criminal street gang or for the purpose of gaining entrance to or maintaining or increasing position in such a gang;

"(2) to participate, or attempt to participate, in a criminal street gang, or conspire to do so;

"(3) to command, counsel, persuade, induce, entice, or coerce any individual to participate in a criminal street gang;

"(4) to employ, use, command, counsel, persuade, induce, entice, or coerce any individual to commit, cause to commit, or facilitate the commission of, a predicate gang crime, with intent to promote the activities of a criminal street gang or for the purpose of gaining entrance to or maintaining or increasing position in such a gang; or

"(5) to use any communication facility, as defined in section 403(b) of the Controlled Substances act (21 U.S.C. 843(b)), in causing or facilitating the commission, or attempted commission, of a predicate gang crime with intent to promote or further the activities of a criminal street gang or for the purpose of gaining entrance to or maintaining or increasing position in such a gang. Each separate use of a communication facility shall be a separate offense under this subsection.

"§ 1932. Penalties

"(a) PENALTIES OF UP TO 20 YEARS OR LIFE IMPRISONMENT.—A person who violates section 1931(b) (1) or (2) shall be punished by imprisonment for not more than 20 years, or by imprisonment for any term of years or for life if the violation is based on a predicate gang crime for which the maximum penalty includes life imprisonment, and if a person commits such a violation after 1 or more prior convictions for such a predicate gang crime, that is not part of the instant violation, such person shall be sentenced to a term of imprisonment which shall not be less than 10 years and which may be for any term of years exceeding 10 years or for life.

"(b) PENALTIES BETWEEN 5 AND 10 YEARS.—A person who violates section 1931(b) (3) or (4) shall be sentenced to imprisonment for not less than 5 nor more than 10 years, and if a person who was the subject of the act was less than 18 years of age, to imprisonment for 10 years. A term of imprisonment under this subsection shall run consecutively to any other term of imprisonment, including that imposed for any other violation of this chapter.

"(c) PENALTIES OF UP TO 5 YEARS.—A person who violates section 1931(b)(5) shall be punished by imprisonment for not more than 5 years.

"(d) ADDITIONAL PENALTIES.—

"(1) IN GENERAL.—In addition to the other penalties authorized by this section—

"(A) a person who violates section 1931(b) (1) or (2), 1 of whose predicate gang crimes involves murder or conspiracy to commit murder which results in the taking of a life, and who commits, counsels, commands, induces, procures, or causes that murder, shall be punished by death or by imprisonment for life;

"(B) a person who violates section 1931(b) (1) or (2), 1 of whose predicate gang crimes involves attempted murder or conspiracy to commit murder, shall be sentenced to a term of imprisonment which shall not be less than 20 years and which may be for any term of years exceeding 20 years or for life; and

"(C) a person who violates section 1931(b) (1) or (2), and who at the time of the offense occupied a position of organizer or supervisor, or other position of management in that street gang, shall be sentenced to a term of imprisonment which shall not be less than 15 years and which may be for any term of years exceeding 15 years or for life.

"(2) PRESUMPTION.—For purposes of paragraph (1)(C), if it is shown that the defendant counseled, commanded, induced, or procured 5 or more individuals to participate in a street gang, there shall be a rebuttable presumption that the defendant occupied a position of organizer, supervisor, or other position of management in the gang.

"(e) FORFEITURE.—

"(1) IN GENERAL.—A person who violates section 1931(b) (1) or (2) shall, in addition to any other penalty and irrespective of any provision of State law, forfeit to the United States—

"(A) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as a result of the violation; and

"(B) any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, the violation.

"(2) APPLICATION OF CONTROLLED SUBSTANCES ACT.—Section 413 (b), (c), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), and (p) of the Controlled Substances Act (21 U.S.C. 853 (b), (c), and (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), and (p)) shall apply to a forfeiture under this section.

(c) SENTENCING GUIDELINES INCREASE FOR GANG CRIMES.—The United States Sentencing Commission shall at the earliest opportunity amend the sentencing guidelines to increase by at least 4 levels the base offense level for any felony committed for the purpose of gaining entrance into, or maintaining or increasing position in, a criminal street gang. For purposes of this subsection, "criminal street gang" means any organization, or group, of 5 or more individuals, whether formal or informal, who act in concert, or agree to act in concert, for a period in excess of 30 days, with the intent that any of those individuals alone, or in any combination, commit or will commit, 2 or more acts punishable under State or Federal law by imprisonment for more than 1 year.

SEC. 612. CRIMES INVOLVING THE USE OF MINORS AS RICO PREDICATES.

Section 1961(1) of title 18, United States Code, is amended—

(1) by striking "or" before "(E)"; and

(2) by inserting before the semicolon at the end of the paragraph the following: ", or (F) any offense against the United States that is punishable by imprisonment for more than 1 year and that involved the use of a person below the age of 18 years in the commission of the offense".

SEC. 613. SERIOUS JUVENILE DRUG OFFENSES AS ARMED CAREER CRIMINAL ACT PREDICATES.

Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking "or" at the end of clause (i);

(2) by striking "and" at the end of clause (ii) and inserting "or"; and

(3) by adding at the end the following:

"(iii) any act of juvenile delinquency that if committed by an adult would be a serious drug offense described in this paragraph; and".

SEC. 614. ADULT PROSECUTION OF SERIOUS JUVENILE OFFENDERS.

Section 5032 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by striking "an offense described in section 401 of the Controlled Substances Act (21 U.S.C 841), or section 1002(a), 1003, 1005, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b)(1), (2), (3))," and inserting "an offense (or a conspiracy or attempt to commit an offense) described in section 401, or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841, 844, or 846), section 1002(a), 1003, 1005, 1009, 1010(b)(1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C.

952(a), 953, 955, 959, 960(b)(1), (2), or (3), or 963),"; and

(B) by striking "922(p)" and inserting "924(b), (g), or (h)";

(2) in the fourth undesignated paragraph—

(A) by striking "an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959)" and inserting "an offense (or a conspiracy or attempt to commit an offense) described in section 401, or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841, 844, or 846), section 1002(a), 1005, 1009, 1010(b)(1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959, 960(b)(1), (2), or (3), or 963), or section 924(b), (g), or (h) of this title,"; and

(B) by striking "subsection (b)(1)(A), (B), or (C), (d), or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b)(1), (2), (3))" and inserting "or an offense (or conspiracy or attempt to commit an offense) described in section 401(b)(1)(A), (B), or (C), (d), or (e), or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A), (B), or (C), (d), or (e), 844, or 846) or section 1002(a), 1003, 1009, 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b)(1), (2), or (3), or 963)"; and

(3) in the fifth undesignated paragraph by adding at the end the following: "In considering the nature of the offense, as required by this paragraph, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use or distribution of controlled substances or firearms. Such a factor, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of this factor shall not preclude such a transfer.".

SEC. 615. INCREASED PENALTIES FOR EMPLOYING CHILDREN TO DISTRIBUTE DRUGS NEAR SCHOOLS AND PLAYGROUNDS.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding any other law, any person at least 18 years of age who knowingly and intentionally—

"(1) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to violate this section; or

"(2) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to assist in avoiding detection or apprehension for any offense under this section by any Federal, State, or local law enforcement official,

is punishable by a term of imprisonment, a fine, or both, up to triple those authorized by section 401.".

SEC. 616. INCREASED PENALTIES FOR DRUG TRAFFICKING NEAR PUBLIC HOUSING.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within"; and

(2) in subsection (b) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within".

SEC. 617. INCREASED PENALTIES FOR TRAVEL ACT CRIMES INVOLVING VIOLENCE AND CONSPIRACY TO COMMIT CONTRACT KILLINGS.

(a) TRAVEL ACT PENALTIES.—Section 1952(a) of title 18, United States Code, is amended by striking "and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than five years, or both." and inserting "and thereafter performs or attempts to perform—

"(A) an act described in paragraph (1) or (3) shall be fined under this title, imprisoned not more than 5 years, or both; or

"(B) an act described in paragraph (2) shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be imprisoned for any term of years or for life.".

(b) MURDER CONSPIRACY PENALTIES.—Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

SEC. 618. AMENDMENTS CONCERNING RECORDS OF CRIMES COMMITTED BY JUVENILES.

(a) Section 5038 of title 18, United States Code, is amended by striking subsections (d) and (f), redesignating subsection (e) as subsection (d), and by adding at the end new subsections (e) and (f) as follows:

"(e) Whenever a juvenile has been found guilty of committing an act which if committed by an adult would be an offense described in clause (3) of the first paragraph of section 5032 of this title, the juvenile shall be fingerprinted and photographed, and the fingerprints and photograph shall be sent to the Federal Bureau of Investigation, Identification Division. The court shall also transmit to the Federal Bureau of Investigation, Identification Division, the information concerning the adjudication, including name, date of adjudication, court, offenses, and sentence, along with the notation that the matter was a juvenile adjudication. The fingerprints, photograph, and other records and information relating to a juvenile described in this subsection, or to a juvenile who is prosecuted as an adult, shall be made available in the manner applicable to adult defendants.

"(f) In addition to any other authorization under this section for the reporting, retention, disclosure, or availability of records or information, if the law of the State in which a Federal juvenile delinquency proceeding takes place permits or requires the reporting, retention, disclosure, or availability of records or information relating to a juvenile or to a juvenile delinquency proceeding or adjudication in certain circumstances, then such reporting, retention, disclosure, or availability is permitted under this section whenever the same circumstances exist.".

(b) Section 3607 of title 18, United States Code, is repealed, and the corresponding item in the chapter analysis for chapter 229 of title 18 is deleted.

(c) Section 401(b)(4) of the Controlled Substances Act (21 U.S.C. 841(b)(4)) is amended by striking "and section 3607 of title 18".

SEC. 619. ADDITION OF ANTI-GANG BYRNE GRANT FUNDING OBJECTIVE.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751) is amended—

(1) in paragraph (20) by striking "and" at the end;

(2) in paragraph (21) by striking the period and inserting "; and"; and

(3) by inserting after paragraph (21) the following new paragraph:

"(22) law enforcement and prevention programs relating to gangs, or to youth who are involved or at risk of involvement in gangs.".

Subtitle B—Gang Prosecution

SEC. 621. ADDITIONAL PROSECUTORS.

There is authorized to be appropriated $20,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998 for the hiring of additional Assistant United States Attorneys to prosecute violent youth gangs.

SEC. 22. GANG INVESTIGATION COORDINATION AND INFORMATION COLLECTION.

(a) COORDINATION.—The Attorney General (or the Attorney General's designee), in consultation with the Secretary of the Treasury (or the Secretary's designee), shall develop a national strategy to coordinate gang-related investigations by Federal law enforcement agencies.

(b) DATA COLLECTION.—The Director of the Federal Bureau of Investigation shall acquire and collect information on incidents of gang violence for inclusion in an annual uniform crime report.

(c) REPORT.—The Attorney General shall prepare a report on national gang violence outlining the strategy developed under subsection (a) to be submitted to the President and Congress by January 1, 1995.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for fiscal year 1994.

SEC. 623. CONTINUATION OF FEDERAL-STATE FUNDING FORMULA.

Section 504(a)(1) of title I of the Omnibus Crime and Safe Streets Act of 1968 (42 U.S.C. 3754(a)(1)) is amended by striking "1992" and inserting "1993".

SEC. 624. GRANTS FOR MULTIJURISDICTIONAL DRUG TASK FORCES.

Section 504(f) of title I of the Omnibus Crime and Safe Streets Act of 1968 (42 U.S.C. 3754(f)) is amended by inserting "and gang" after "Except for grants awarded to State and local governments for the purpose of participating in multijurisdictional drug".

Subtitle C—Antigang Provisions

SEC. 631. GRANT PROGRAM.

Part B of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631 et seq.) is amended—

(1) by inserting after the part heading the following subpart heading:

"Subpart I—General Grant Programs";

and

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

"Subpart II—Juvenile Drug Trafficking and Gang Prevention Grants

"FORMULA GRANTS

"SEC. 231. (a) AUTHORIZATION.—The Administrator may make grants to States, units of general local government, private not-for-profit anticrime organizations, or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects, directly or through grants and contracts with public and private agencies, for the development of more effective programs including prevention and enforcement programs to reduce—

"(1) the formation or continuation of juvenile gangs; and

"(2) the use and sale of illegal drugs by juveniles.

"(b) PARTICULAR PURPOSES.—The grants made under this section can be used for any of the following specific purposes:

"(1) To reduce the participation of juveniles in drug-related crimes (including drug trafficking and drug use), particularly in and around elementary and secondary schools.

"(2) To reduce juvenile involvement in organized crime, drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles.

"(3) To develop within the juvenile justice system, including the juvenile corrections system, innovative means to address the problems of juveniles convicted of serious drug-related and gang-related offenses.

"(4) To reduce juvenile drug and gang-related activity in public housing projects.

"(5) To reduce and prevent juvenile drug and gang-related activity in rural areas.

"(6) To provide technical assistance and training to personnel and agencies responsible for the adjudicatory and corrections components of the juvenile justice system to—

"(A) identify drug-dependent or gang-involved juvenile offenders; and

"(B) provide appropriate counseling and treatment to such offenders.

"(7) To promote the involvement of all juveniles in lawful activities, including in-school and after-school programs for academic, athletic, or artistic enrichment that also teach that drug and gang involvement are wrong.

"(8) To facilitate Federal and State cooperation with local school officials to develop education, prevention, and treatment programs for juveniles who are likely to participate in drug trafficking, drug use, or gang-related activities.

"(9) To prevent juvenile drug and gang involvement in public housing projects through programs establishing youth sports and other activities, including girls' and boys' clubs, scout troops, and little leagues.

"(10) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system with the highest possible priority to providing drug abuse treatment to drug-dependent pregnant juveniles and drug-dependent juvenile mothers.

"(11) To provide education and treatment programs for juveniles exposed to severe violence in their homes, schools, or neighborhoods.

"(12) To establish sports mentoring and coaching programs in which athletes serve as role models for juveniles to teach that athletics provides a positive alternative to drug and gang involvement.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 232. There are authorized to be appropriated $100,000,000 for fiscal year 1994 and such sums as are necessary for fiscal year 1995 to carry out this subpart.

"ALLOCATION OF FUNDS

"SEC. 233. The amounts appropriated for this subpart for any fiscal year shall be allocated as follows:

"(1) $500,000 or 1.0 percent, whichever is greater, shall be allocated to each of the States.

"(2) Of the funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount that bears the same ratio to the amount of remaining funds described in this paragraph as the population of juveniles residing in the State bears to the population of juveniles residing in all the States.

"APPLICATION

"SEC. 234. (a) IN GENERAL.—Each State or entity applying for a grant under section 231 shall submit an application to the Administrator in such form and containing such information as the Administrator shall prescribe.

"(b) REGULATIONS.—To the extent practicable, the Administrator shall prescribe regulations governing applications for this subpart that are substantially similar to the regulations governing applications required under subpart I of this part and subpart II of part C, including the regulations relating to competition.".

SEC. 632. CONFORMING REPEALER AND AMENDMENTS.

(a) REPEAL OF PART D.—Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667 et seq.) is repealed, and part E of title II of that Act is redesignated as part D.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 291 of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(1)" and by striking "(other than part D)"; and

(B) by striking paragraph (2); and

(2) in subsection (b) by striking "(other than part D)".

Mr. DOLE. Mr. President, I ask there be 30 minutes equally divided on the amendment.

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

Mr. DOLE. It may not take 30 minutes. I know the Senator from Connecticut is ready to go. It may be acceptable.

The PRESIDING OFFICER. Without objection, the pending amendment of the Senator from Texas will be set aside.

Mr. DOLE. Mr. President, I am pleased to join with my distinguished colleague, Senator HATCH, in offering this amendment to address the rising level of gang-related violence in our country.

In fact, not long ago, the Washington Post ran a front page story on the problem of youth gangs in Wichita, KS. Anytime that crime in Wichita, KS, is front page news in Washington, you know there is a big problem out there. It is not just in the cities, it is everywhere.

In my own State of Kansas, gang activity is on the rise, not only in Wichita, but in Topeka and Kansas City as well.

The Kansas Bureau of Investigation has identified 2,895 gang members in the State. And if you include those who call Kansas City, MO, their home, the number of gang members wreaking havoc in Kansas exceeds 3,300.

This amendment takes a balanced approach—focusing both on law enforcement and prevention. It was crafted with the assistance of the Justice Department during the Bush administration, and with the help of Federal prosecutors who are on the front lines in the war against violent crime. The amendment reflects the antigang provisions of the Neighborhood Security Act, which Senate Republicans introduced earlier this year.

On the law enforcement side, the amendment would give Federal prosecutors clear-cut authority to prosecute illegal gang activity by creating a new Federal antigang statute.

The amendment specifically makes it a Federal criminal offense to commit, or attempt to commit, a predicate gang crime with the intent to promote or further a criminal street gang. The amendment defines predicate gang crime as any act, or attempted act, which is chargeable under Federal or State law and punishable for imprisonment for more than 1 year, involving murder, attempted murder, kidnaping, robbery, obstruction of justice, and illegal drug activity. In other words, very serious crimes.

The amendment also makes it a Federal crime to participate in, or to conspire to participate in, a criminal street gang, and to induce others to join the gang.

I might say we adopted minimum penalties last week at the suggestion of the distinguished Senator from California [Mrs. BOXER] when it came to admission of prior offenses in sexual misconduct. So tough mandatory minimum penalties would apply to those who violate these provisions of the new Federal antigang statute.

The amendment also authorizes $100 million over 5 years to hire additional assistant U.S. attorneys to prosecute gang activity and directs the Attorney General to develop a national strategy aimed at coordinating Federal gang-related investigations.

It is one thing to make the criminal laws tougher, but it is equally important to give our Federal prosecutors the resources to ensure that these laws are enforced.

In addition, the amendment establishes crimes involving the use of minors as predicate crimes under the RICO statute. And it creates a presumption in favor of adult prosecution of the leaders of juvenile gangs or juveniles with a history of violent crime or drug activity.

On the prevention side, the amendment establishes a $100 million grant program under the Juvenile Justice and Delinquency Prevention Act. Moneys under the grant program would be made available to States and to private, not-for-profit organizations who work with juveniles and gang members. The purpose of the grants is not to coddle gang members, but to help them get on the right path through mentoring, role-model, and other valuable programs.

In fact, the distinguished Senator from New Mexico, Senator DOMENICI, discussed this theme earlier. I hope he or his staff is listening because I think he has particular interest in this particular provision.

I know that my distinguished colleague from Delaware establishes a similar prevention program in his bill, and I commend him for that.

Mr. President, this amendment will not stop gang activity overnight, but it is a significant step in the right direction.

There is no excuse, no reason, that can justify the vicious crimes of violence that gang members commit on our streets. More often than not, it is the innocent bystander, and not the gang member himself, who ends up getting caught in the crossfire.

If we want to get tough with gangs and with criminal gang activity, then we ought to support this amendment.

We have had a lot of good amendments adopted. I think we are headed for a good crime bill. Let us not weaken now. Let us not back off. Let us stick with it, and let us pass a tough crime bill which will include this particular amendment.

I thank the Chair and I yield to my colleague.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I want to thank the minority leader for his work on this amendment.

I urge my colleagues to support this amendment on gangs. Our Nation is currently witnessing an unprecedented growth in gang violence, a scourge all too well known to cities like Los Angeles and New York City. What used to be a problem of our Nation's largest cities, gangs have invaded the very States and cities in Wichita, KS, and Salt Lake City, in my own home State.

The problem of gang and youth violence is a great concern to the citizens of my State. According to the Salt Lake Area Gang Project, a multijurisdictional task force created in 1989 to fight gang crime in the Salt Lake area, there are at least 215 identified gangs in our region with over 1,700 members. That is hard to believe, but that is true.

The project informs me that gang-related crime incidents have risen from 388 in 1991 to over 3,100 in the first 7 months of this year. While many of these offenses are property crimes, I have to say assaults and shootings continue to grow as well. In fact, there were over 62 drive-by shootings and 3 homicides attributable to gang violence in Utah in the first 7 months of this year.

Juvenile involvement in Utah's gangs is substantial, accounting for 34 percent of gang membership, and members usually range from 15 to 22 years of age. The young people of our inner cities need to be steered away from gang involvement. As well, law enforcement needs tools to intervene early in the lives of these troubled minors. Gang intervention efforts are critical to the Salt Lake Valley, the entire State of Utah and, frankly, to every State of the Union. That is why we need to ensure continued funding for projects like the Salt Lake Area Gang Project.

The project has worked to interdict gang activity, mobilize communities, and provide gang intelligence to police agencies. Salt Lake City, Sandy City, Murray City, and other surrounding cities all contribute manpower to this effort. The Hatch-Dole amendment ensures continued funding for this project. In July, the Senate passed legislation similar to this aspect of the Hatch-Dole amendment. Funding for multijurisdictional gang task forces must be passed so that our struggling cities are provided the funds necessary to combat gang and youth violence.

The Hatch-Dole, or Dole-Hatch, gang amendment also incorporates many other aspects of the Dole-Hatch crime bill. It includes a provision providing for the powerful arm of the Federal Government to be made available to State and local law enforcement agencies to help combat gang violence.

The amendment makes it a Federal offense to engage in gang-related crime and subjects gang members to stiff mandatory minimum penalties. For example, gang members who recruit others into criminal gangs or engage in criminal conduct shall be subject to a mandatory minimum penalty of 5 years imprisonment. If a gang offense involved attempted murder, the perpetrator faces a mandatory minimum sentence of 20 years imprisonment, and if there is murder, the gang member faces a possible death sentence.

As well, our amendment makes it a RICO predicate; that is, the Racketeering Influence and Corrupt Organizations predicate, punishable with up to 20 years imprisonment to involve juveniles in criminal activities. That is, criminal gang leaders who use juveniles in criminal enterprises for financial gain will be subject to the same penalties as organized crime leaders. That is important. It is tough. It is going to mean something, and it is going to make people think twice before they involve our teenagers in these crimes.

Our amendment also provides for adult prosecution of serious juvenile offenders, increased penalties for employing children to distribute drugs near schools or playgrounds or public housing and for travel act crimes involving violence and conspiracy to commit contractual killings.

As well, our amendment provides $50 million for additional Federal prosecutors who will be assigned to fight gang violence. These additional prosecutors will make implementation of this gang measure a reality by ensuring that additional prosecutors will be assigned to cities where most needed.

Finally, the Hatch-Dole amendment establishes a $100 million grant program for efforts at the State and local level, and by private not-for-profit anticrime organizations to assist in prevention and enforcement programs aimed at fighting juvenile gangs.

Funding formulated under this provision will be allocated to each of the States as follows: Each State would receive a minimum of $500,000, or 1 percent, whichever is greater, and the balance would be distributed to each State based on a ratio of the population of juveniles residing in the State as compared to the population of juveniles residing in the country.

Mr. President, while the Democratic bill appears to address gang violence, their street gangs provision is too narrow to be of any practical use to prosecutors. In fact, in order for a gang offender to be prosecuted under their proposal, he or she must have committed a Federal crime and have a prior felony criminal conviction for drug trafficking or crime of violence.

Further, the Democratic bill fails to provide mandatory minimum penalties for serious gang related crimes.Instead, their bill simply enhances the maximum penalty. The positive aspect of the Democrats' gang title, which our amendment leaves intact, is a proposal to allow the States to use existing law enforcement grants to implement bind-over systems for the prosecution of violent juveniles in adult courts. I commend my colleague from Delaware for this proposal.

Essentially, those who oppose the Hatch-Dole amendment will argue that this amendment unnecessarily federalizes matters that are better left to the States, yet I can think of no area where there is a greater Federal interest than in assisting the States to prosecute and incarcerate violent offenders.

The first responsibility of government is to ensure the safety of the public. It is true that State and local governments now handle over 95 percent of the criminal cases filed each year. The crime bill we are debating recognizes this fact by proposing a significant increase in financial assistance to States to hire additional police, build more prisons and jails, and make schools safer. I submit, however, that the Federal Government's role in assisting the States' fight against violent crime must be measured by more than financial support.

The Federal Government, as a result of the Controlled Substance Act, has jurisdiction over virtually all drug trafficking, manufacturing, and distribution offenses. Yet, most drug cases are still prosecuted at the State and local level. This is because the Federal law enforcement agencies have worked in a cooperative manner with local officials so that the U.S. resources can be used most effectively. I am unaware of a single State or local prosecutor who opposes the Federal Government's assistance in these cases.

The Hatch-Dole antigang amendment does not transfer the exclusive jurisdiction of gang offenses from the States to

the Federal Government. Rather, it permits the Federal Government to assist the States in their ongoing effort to fight gang violence. This amendment does not relieve the States of any responsibility for prosecuting gangs or other violent crime. It simply permits Federal assistance.

Some of my colleagues have little or no trouble proposing that we federalize the delivery and payment of health care services, labor/management relations, teacher standards, energy policy, environmental standards, child support collection, reproductive rights, and other issues too numerous to list. Yet, when the issue before the Congress is the safety of law-abiding Americans, oftentimes the enthusiasm for Federal intervention dissipates. While regrettable, their position is understandable. After all, if Federal resources must be devoted to fighting crime, there may be less resources available to address their particular interests. In my view, however, Congress should not get into these additional areas until our principal obligation to the American people has been met.

The Senator from Delaware and I differ somewhat on this amendment, but he is not opposed to federalizing all criminal matters. Last week, the Senate adopted an amendment to this bill authored by our chairman which federalizes crimes motivated by gender. I am a cosponsor of this measure and worked with our distinguished friend, Senator BIDEN, to pass it.

I appreciate the fact that Federal judges are opposed to the increasing trend toward federalizing crimes. Yet, claims that criminal cases are taking up a disproportionate amount of Federal filings are not supported by the facts. According to the Administrative Office of the U.S. Courts, the criminal caseload per judge is nearly 50 percent below that of 1972. The number of criminal cases reached a 40-year peak in 1972, and despite all of the cries from the defense bar, the number of criminal cases filed in 1992 was actually 14 percent below the 1972 figure. There were less criminal cases in Federal courts in 1992 than there were in 1972, even though the number of authorized judges is now 62 percent higher than in 1972.

Mr. President, the choice is clear. If my colleagues truly want to provide the States the assistance they need in fighting gang violence, both financial support and jurisdictional support, then they should support this amendment, and I hope they will.

I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. We have an interesting and somewhat fascinating trend going on in the Senate. The more conservative you are and the more Republican you are, the more you want to eliminate federalism and States rights. It is a phenomenal and fascinating undertaking we have been engaged in here.

One of the two things we have always said should be left to State and local governments in terms of directing them how they should act is in terms of education and in terms of law enforcement. We have gone out of our way for over 200 years to prevent the establishment of a Federal police force, and we have spent a great deal of time making sure that we do not federalize all criminal laws.

Let us talk about what is in the Biden crime bill already and why I believe this is not needed.

Under the youth violence provisions of the Biden crime bill to which this amendment is being added, there are increased penalties for drug dealing in drug-free zones near playgrounds, school yards, and youth centers; increased penalties for drug dealing in public housing facilities; increased penalties for adults who use kids to deal drugs near schools and playgrounds; a new 10-year penalty for gang members who commit Federal drug offenses or crimes of violence and who have been convicted before; increased penalties for the Travel Act violations, crossing State lines, that is, to commit violent crimes in furtherance of drug trafficking; grants for State bindover programs to prosecute and sentence violent 16- and 17-year-olds as adults; and a $15 million grant for antigang and antidrug law enforcement efforts.

With regard to prevention in this area, there is a $15 million grant for antigang and drug trafficking prevention programs made available to the States, and $100 million for the safe schools program to fund anticrime, antidrug, and safety measures such as metal detectors in schools.

Now, let us take a look at the proposed Dole amendment in contrast to what I have mentioned. It is, in my view, counterproductive. First, Senators HATCH and DOLE provide for sweeping federalization of crimes that are more properly handled by the States. The Republican bill provides for Federal prosecution and penalties for State crimes—State crimes, not Federal crimes, State crimes—committed as part of gang activities, ranging from violent crimes to possession of drugs to property damage.

This amendment before us would federalize hundreds of thousands of street crimes, obviously charging Federal law enforcement agents with enforcing these street crimes. On first look, it sounds very good, but let us remember it is State and local law enforcement officers who are experts in this type of street crime, not Federal agents. The skills and resources of Federal officers are best devoted to investigating and prosecuting complex multi-State, major drug investigations, and the task force is suited to these skills and expertise that involve costly Federal agents to be involved.

What is more, it is also clear that State and local law enforcement agents are the experts when it comes to busting street gangs, street thugs, and street punks. That is why this bill targets such significant aid to local police.

Let us understand what we are doing. What we are doing is providing in this bill almost $9 billion—$9 billion—to provide 100,000 local police officers —100,000 over the next 5 years—who will be out on the street, on the pavement, walking around dealing with local crime—a big, big, big deal. Now, to come along after we have done that and federalize all of those local crimes, insisting that we have Federal agents doing that, bringing these cases into Federal court, prosecuted by Federal law enforcement agencies basically says one of two things: Either we think that local law enforcement is not competent to handle it, even when we contribute $9 billion additional to help them help themselves, or we have concluded that they are unwilling to prosecute these crimes and go after these individuals, for why else do we federalize these measures?

Think about it. For 200 years we have not federalized unless there has been a Federal nexus like in the drug cases. The reason why we have had Federal intervention in local drug cases is because drugs are fungible and porous. They pour across State borders. No single local law enforcement agency can break up a major drug cartel.

If a gang is engaged in major drug trafficking, they would fall under that purview. But if a gang involving local thugs is involved in the normal business—and it is bizarre to say normal business—the normal business of being involved in burglarizing and robbing and terrorizing the community, what are local police for? What do we have them for? Why are we passing a $9 billion bill? Why do we not spend the $9 billion, give it to the FBI and the DEA, which could use it very badly, put Federal agents on the street in these local communities, and make them Federal crimes?

But we are doing both here. We are coming along with a total of a $21 billion bill, over $21 billion, almost all of which is in indirect aid to the States, $9 billion of which is just for police officers. On top of that, we are going to federalize these crimes.

Why would you have a burglary committed by a gang member, or a robbery attempted by a gang member, why is that a Federal crime, and yet a robbery committed by the same person not a member of the gang is a local crime? What is the rationale here? I know we do not often need a rationale to act in this body, but it seems to me there should be some nexus.

Let us keep the Federal agents doing what they do best. Ninety-five percent

of all crimes are investigated and prosecuted at the State level, and this amendment seeks to drastically change that. It seeks to federalize murder or attempted murder, assault, kidnapping, attempted kidnapping, robbery, attempted robbery, extortion, attempted extortion, arson, attempted arson, obstruction of justice, and attempted obstruction of justice, tampering with a witness, manufacturing, importing, or receiving, purchasing, selling, or dealing in drugs. These are all very serious crimes, I might add. They should be punished. They should be punished at the State level.

This amendment is also very troublesome for another reason. In an effort to appear tough, the amendment would impose new mandatory penalties which, in many circumstances, will fit neither the crime nor the criminal. For instance, under the Republican bill, someone who acts as a lookout out while someone else buys drugs could get up to 20 years in prison, twice as long as the sentence we would give an adult who sells $100,000 worth of cocaine.

Under Federal law, an adult who sells $100,000 worth of cocaine would get half the amount of time as the kid who is a lookout for a gang while someone else is buying drugs.

The Republican bill will provide a mandatory 10-year sentence for a gang member who recruits someone else into a gang. We do not have mandatory 10-year sentences for the people in the Federal system who do a whole lot worse than that, or at the State level. A mandatory 10-year sentence to a kid who steals a transistor radio one day and breaks into a car the next day in trying to gain admission into a gang. They get 10 years, but an adult who sells 25,000 dollars' worth of heroin will get 5 years.

A gang initiation where they say steal that radio, and then the next day steal that car, all things which should be prosecuted at a State level, I might add, under this bill are federalized and a mandatory 10-year sentence. The same drug dealer down the street can sell 25,000 dollars' worth of heroin, and get 5 years in jail.

I do not mean to suggest for a moment these are not serious offenses, because they are. And they should be punished. But punishment should fit the crime, and punishment should fit the criminal.

I favor much tougher treatment, and my bill, the Biden bill to which this is being attached, provides much tougher treatment. But punishment must still be appropriately calibrated it seems to me.

There are some kids I fear who are beyond help, and that is one of the reasons why I have come to believe that there are certain juveniles, certain violent juveniles, who should be prosecuted and sentenced as adults.

So my bill provides that grants could be made to States to bind over programs to treat certain violent 16- and 17-year-olds as adults. In other words, we give the States money to hold over these violent juveniles, 16- and 17-year-olds, and try them in adult courts.

It is also why my bill contains a stiff new penalty for gang members who commit a second violent crime or serious drug crime. It is also why the Biden bill contains stiff new penalties for crossing State lines to commit violent crimes in furtherance of drug trafficking. But my penalties, unlike those of the Dole amendment, better comport with the reality and with federalism. They apply to Federal crimes.

And they apply to violent crimes and serious drug crimes. These are the kids who we really need to go after with the stiff penalties, the serious repeat offenders. We have to focus our attention on a small percentage of the kids who are committing a great majority of the crimes at a Federal level. At the local level they should focus on all of it.

I understand the frustration, fear, and the sense of helplessness that is felt across our land with regard to juvenile violence. I share it.

But that does not mean that we should federalize tens of thousands of State crimes that should be left in the hands of the States to prosecute. This is one area where the police, the local police, do a pretty good job. I might add we are giving them $9 billion—$9 billion for 100,000 local police officers to help do this job.

I am willing to yield the time if my Republican colleagues are. If not, I reserve the remainder of my time.

Mr. President, parliamentary inquiry: The unanimous-consent agreement under which we are operating indicated there are no second-degree amendments. Is that correct?

The PRESIDING OFFICER (Mr. MATHEWS). That has not been part of the agreement.

Mr. BIDEN. I would so request. I make that unanimous-consent request.

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

Mr. BIDEN. Mr. President, I would also suggest, and I am going to seek some advice here from floor staff, that when we yield back the time that the vote on this amendment be ordered to occur at 2:30.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER OF PROCEDURE

Mr. BIDEN. Mr. President, I ask unanimous consent that the vote on the Dole amendment occur immediately following the disposition of the cloture vote which has been ordered tomorrow afternoon.

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

Mr. BIDEN. Mr. President, I see my friend from Connecticut is on the floor. I know he is kind enough to stay this late hour. I truly appreciate it. I understand he has an amendment on carjacking. Do we have a time agreement on that amendment? How much time would the Senator wish?

Mr. LIEBERMAN. Mr. President, 30 minutes will be more than enough, equally divided. Perhaps we will not have to use that amount of time.

Mr. BIDEN. Mr. President, I ask unanimous consent that 30 minutes be on this amendment and divided in the usual form with no second-degree amendments in order.

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

AMENDMENT NO. 1141

(Purpose: To make carjacking a Federal offense without regard to whether the offense is committed with the use of a firearm and to authorize imposition of the death penalty if death results from commission of the offense)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN] proposes an amendment numbered 1141.

Mr. LIEBERMAN. 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 53, line 18, strike the period after "death." and insert "; and by striking ", possessing a firearm as defined in section 921 of this title,"."

Mr. LIEBERMAN. Mr. President, as has been said by Members of the Senate of both parties, this has been an extraordinary period of days here in the United States Senate, because I really do believe that we have shown not just by our rhetoric, but by our actions, by the amendments we have adopted, that we hear the voice of the people of this country crying out for protection, crying out for public safety, crying out for help against those individuals who are committing this madness on our streets and in our neighborhoods, the outrageous and unacceptable amount of crime which strikes at the fundamental purpose for which governments are formed: Order.

So I am very proud to have been part of these discussions and to see this bill getting better and better.

This amendment that I have proposed deals with a particular part of

the horrific increase in crime into areas where crimes had not previously occurred, and that is in the particular case of carjacking. I believe, if adopted, this amendment will further strengthen this bill.

In May of this year, I introduced legislation to provide prosecutors with the option of seeking the death penalty in carjackings where death results. I was pleased that the chairman of the Judiciary Committee included in his bill a provision to allow the imposition of the death penalty in carjackings in which a firearm is used and results in the death of an innocent person. But, Mr. President, the brutal and heinous character of carjackings occurring throughout the country, including in my own State of Connecticut, has convinced me that the current provisions of the bill should be extended. The law must be broadened to include all carjackings that result in death, not simply armed carjackings.

So the amendment I am offering would provide that if a death results from a carjacking, the death penalty may be applied, regardless of whether a firearm was used in the course of that carjacking.

Mr. President, we were all sickened and infuriated by the Basu case, the carjacking here in suburban Maryland a year or so ago in which a young mother, in really a nightmare come true, was dragged to her death as she tried to pull her child from her carjacked car, leaving her house in her neighborhood. As I recall, she was stopped at a stop sign and individuals ran out and carjacked the car, not even aware, as I recall—although I am not sure—that there was an infant in the car. And the mother, as the car pulled away, doing what any of us would do, terrified about what would happen to her child, grabs onto the car and is literally dragged to her death. It was the collective horror over that case that prompted Congress to federalize carjacking and provide stiff penalties for the crime.

Ironically, though, the law we passed last year could not have been used to prosecute the crime that engendered the law—the Basu case—even if it had occurred after the law's enactment, because in that case a gun was not used in taking the car. These individuals simply overwhelmed and strong-armed the woman and drove off with her car.

So the amendment I am introducing today removes the requirement that a firearm be used before the Federal law may be invoked. It also provides that if a death occurs as a result of the carjacking, the death penalty may be imposed. It seems to me that that was the purpose of the law in the first place. If a carjacking occurs and a death occurs as a result of that, does it really matter whether a firearm was used, whether a knife wasused, whether physical force was used, or whether a mother, as in the Basu case, was dragged to her death because she wanted to make every effort to save the life of her child?

Mr. President, it is a measure of the outrageous levels to which we have sunk that we have to think of amendments like this. It is really absurd that law-abiding people in our country now have to fear not only walking the streets of our cities and towns but also driving on our streets and our highways. Today, people are afraid to do what used to be the most ordinary, safe activity—while driving. People are afraid to idle at a light today with their doors unlocked, to leave their windows open in their car on a warm day, or to stop at a rest stop along an interstate highway.

As we know—because we have heard of these cases, we have seen the terror enacted, we have seen the victims suffer—these fears are not irrational; they are based on violent crimes, carjacking crimes, that have actually occurred.

For example, in Hartford, CT, a woman was dragged along the streets as she clung to her car in which her small children were strapped, an experience painfully similar to that tragedy in suburban Maryland.

In Waterbury, CT, a man with a utility knife forced his way into a car stopped at a light and drove off after terrorizing the driver.

Along Interstate 95 in Connecticut—and these are all in my home State—carjackers have struck at rest stops. In one case, a man with a knife crept up behind a woman as she opened her car door, forced his way behind the wheel and drove off, only releasing that poor woman after an hour of terror.

In another case, a couple stopped at a rest stop to catch some sleep before driving further north to Massachusetts, woke to the sound of carjackers smashing their car windows. The carjackers grabbed the female passenger, struck her in the face with a revolver, ordered the couple out of the car, and drove off. This is barbaric, outrageous behavior that no civilized society can accept.

Mr. President, we need to send a louder and clearer message. This new violent crime of carjacking will not be tolerated. Criminals must learn that when they choose to expand their violence to carjacking, the law enforcement resources of the Federal Government will be brought to bear against them, regardless of whether or not they have used a gun. They must understand that if a carjacking causes someone's death, they will face death themselves.

Mr. President, here, too, as we have in so many other sections of this bill that seems to grow stronger every day in the Senate, we have to galvanize Federal and State resources before carjacking becomes just another in an array of crimes that too many of us simply accept and adjust to. We must not and cannot accept these lawless acts.

Like all crimes, carjacking terrorizes not only the victims but all who are forced to stay on guard, change their normal patterns of life, or otherwise alter their behavior to avoid becoming a victim.

Mr. President, since armed carjacking became a Federal crime last October, the U.S. attorneys have brought over 90 prosecutions of carjackers.Some carjackers have been brought to justice and are sitting in jail where they belong. Many more prosecutions are anticipated.

It is clear that when we adopted the law we adopted last year, it was not theory, it was reality, and that reality has now been used by Federal prosecutors.

This amendment will broaden and strengthen that law so our U.S. attorneys have every possible tool available to them to attack the problem. Criminals need to know that our response to new crimes will be swift and will be decisive and that society will not tolerate this lawless behavior.

Mr. President, I invite my colleagues to join me in support of this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I thank my colleague from Connecticut for again staying here at this hour to offer an amendment. What I am about to say may cause him some difficulty. I have found him to be most cooperative. Whenever I have asked him to go out of his way to accommodate what sometimes was a confusing schedule of this body, at least when I have been managing a bill, he has always done it. I truly appreciate it.

Mr. President, I hope that State prosecutors, State attorneys general, State district attorneys, State Governors, State legislators, State senators, and the people of this country are listening to this debate.

The truth of the matter is every one of the things we have talked about, almost without exception, which call for federalizing what heretofore has been a State offense are occurring because States are not doing their job. No one in here wants to admit that. No one in here wants to say the States are not doing the job. To say that gets you in trouble with your Governor, your local officials, and the like.

As chairman of the Judiciary Committee, I get letters from all over the country asking why cannot the Federal Government do something about this, whatever "this" is? I also get the same letters with the following sentences: "The Federal Government should stay out of our business; the Federal Government should take care of matters that relate to Federal problems. But,

by the way, shouldn't there be a law against this?''

So what we are responding to—and I am not in any way belittling the point the Senator from Connecticut has made—what we are responding to is the lack of faith, the lack of efficiency, the lack of commitment, the lack of resolve, the lack of success that States have had in this matter. Yet I am confident when this is all over the Congress will be blamed for whatever it is that does not happen out there.

So I just want everybody to understand what we are doing here. In the past, the way we have dealt with crime is we have dealt with crime at a Federal level when it has been a Federal problem. My friend from Connecticut—and I am not being solicitous—is truly a first-class lawyer and was a first-rate prosecutor, a graduate of Yale Law School, a man who is esteemed in the law and knows the law. The fact of the matter is we have heretofore basically operated on the basic principle of federalism, and there has to be constitutionally some nexus between the thing out there that we are trying to outlaw and the Federal Government in order for the Federal Government to take jurisdiction.

Mark my words, as problems in school increase in some States, there will be Senators on the floor of the United States Senate saying we should federalize truancy, we should federalize any assaults that take place within a school, we should federalize any assaults or any crimes that are committed on school grounds.

Think of what we are doing. We are here on the floor at the same time that the Governors and the State legislators and the American people who are saying the Federal Government is trying to do too much are coming here and asking the Federal Government to take care of something that has historically been a local problem.

At least here there is a nexus. There is a nexus in that an automobile can, even if it does not, travel in interstate commerce. That nexus was stronger, I might add, when therequirement of a gun went along with the requirement of an automobile to find a Federal constitutional rationale—a constitutional rationale, to be more precise—to have the long arm of the Federal law extend to what is otherwise a local crime.

Keep in mind, in the past we made it bank robbers, because we found that banks transferred money in interstate. They were federally chartered and the like, so there was a rationale for it. Right now, if there is a robbery in a grocery store, we do not say, ''call in the FBI.'' If there is a robbery in the bank, we have said for years you can—you do not have to—you can call in the FBI.

Essentially what we are doing here, all of what we have been talking about here is basically saying if it happens in the corner grocery store, call in the FBI. If they take my transistor radio out of my car and it is a kid who is a member of the gang and then he steals the car, call in the FBI.

Since I came here over 20 years ago I have been involved in this criminal justice issue. From the time I got here I have spent more of my time on this issue than any other issue. I am proud to say I was a coauthor of the Speedy Trial Act, a coauthor of the Sentencing Commission, the author of increasing the number of Federal judges by one-quarter, and the list goes on.

But we used to deal with getting the Federal law enforcement house in order. I just want the record to note, for those who are listening, the Federal house is in order. This is one thing the Federal Government has gotten right. We have flat-time sentencing. We have enough room in our prisons. We have enough prosecutors. We have enough judges. We have a Speedy Trial Act, and we have flat-time, stiff sentencing.

I hope the States are listening.

This is the last point I will make, and I expect it will be the last time tonight, but it will not be the last time before this bill is finished. At least, my friend from Connecticut has taken an area of law enforcement, a crime, that has historically been able to be prosecuted at a State and local level. Car theft crossing interstate lines has been something that, in fact, has been a Federal crime. When you use a gun, we found the nexus. When you used the car, we found a nexus. But we are getting fairly attenuated here.

I must admit that in the Biden bill, to which this is being attached, there is a provision for the Federal death penalty where a death results from a carjacking with the use of a gun.

So I must admit I am hard pressed to make a strident argument against the position of my friend from Connecticut, because at least he still has the car involved in this process. But I hope we pay attention a little bit to what we are doing.

Let me conclude by saying that on Friday last the majority leader stood up and said: ''We should be honest with the American people. There is not much in this bill that is going to affect crime at the State and local level.''

I agree with him. But he was referring specifically to the penalties we are putting in this bill. There are a number of penalties where we are federalizing certain crimes, and there are a number of penalties where even the long arm of the Federal Government does not reach to the crime. That is not something of consequence, in my view, that we are doing in this bill. What we are doing of consequence in this bill is we are providing 100,000 local police officers; we are providing 6 billion dollars' worth of help to the States in order to house violent criminals; we are providing $1.2 billion in this Biden bill to provide for drug courts to focus on first-time drug offenders; we are providing $600 million to fund my violence-against-women legislation, all of which is significant in a big, big, big way.

But I hope no one thinks by federalizing—as we may tomorrow if we pass the Dole amendment—tens of thousands of street crimes that are totally, completely within local jurisdiction and, hopefully, only hundreds of crimes of the nature the Senator from Connecticut is talking about, that we are really making the most significant contribution here.

I do not know whether this amendment is going to require a vote. To tell you the truth, I started off thinking I was going to oppose the amendment, in part because I wanted to stem this hemorrhage of federalization of everything out there.

My father has an expression on unrelated matters. He says: ''If everything is important to you, then nothing is important to you.''

We are making everything important to the Federal Government. I want the Federal Government focusing on the Mafia. I want the Federal Government focusing on international drug cartels. I want the Federal Government and FBI agents going after those people who defrauded the American people of tens of billions of dollars in the S&L debacle.

I want the Federal Government focusing on complex money laundering schemes. I want the Federal Government training local officers to deal with local crime. I want the Federal Government providing financial help to the States and localities in terms of police, law enforcement, and training. I want the Federal Government passing criminal laws that are modeled for the States so the States can then go out and adopt those laws.

That has historically been the role of the Federal Government. I would hope we would cease and desist from responding to every local problem with a new method, which is: Forget about the Constitution, forget about the notion of the Federal relationship and pass a Federal law dealing with what heretofore has been dealt with very nicely at a local level.

So, as I said, of all the legislation in this area that I believe is the most justified, the one from my friend from Connecticut is, in my view. I understand the counter-arguments. I understand the need, because it is hard, it is very hard to resist the cries for help that are coming from people.

Let me give the Senator one specific example. I know he spoke about how people are fearful of when they get in their automobiles.

If I may be anecdotal and give him two specific examples. The Senator from Delaware commutes to his home State every day. That is a 250-mile commute. When we are in late, beyond

8 o'clock, and the Metroliner to New York—I get off in Wilmington, halfway—is the last good train to leave, I often drive home, because I occasionally have a car down here.

Let me tell you literally what I do—to reinforce the Senator's point. Up until 18 months ago, when I drive home, I drive through, to get to where I have to go, what are considered to be several relatively rough neighborhoods in Washington, DC, which, I might add, would be the case in any major city in America, any major city. And in the summer, when I drive home, Washington nights are hot. And when I say "home," I end up driving 125 miles home. When I drive home, I have the windows down.

About 18 months ago, I concluded that I could not do that anymore. When I drive home, when I drive by myself, I literally find myself, as I go down the deserted streets of Washington, DC, making sure that I pace myself on the lights. If I can see a red light and I am three-quarters of a block away, I stop in the middle of the block. I slow down to 2 or 3 miles an hour, with my doors locked, so I never have to come to a complete stop at the stoplight at a corner. Because that is the place where people walk up and stick a 9 millimeter pistol up against the glass window or take a hammer and smash through the window and physically grab you or hold you at gunpoint.

And so I in no way belittle the crime and the concerns the Senator is speaking to.

If I, as a U.S. Senator, with the protection of the Capitol Hill Police and all the help that is here in Washington, when I drive my automobile home, riding through the neighborhoods, I must go through to get to I-95, if I do not let my car ever come to a full stop—and I am hopefully still an able-bodied person in a position to handle myself relatively well—what must it be for the elderly who lives in that neighborhood? What must it be for the woman with her two children in the back seat who lives in that neighborhood or works in those neighborhoods? What must it be? It is a nightmare.

And so I, in no way, underestimate the sense of fear that people have and how outrageous it is.

And the last little anecdote I will tell the Senator—and I will mention this for a second time in this debate. Those nights that I do not get to go home because it is so late and I did not have a car here, I did not drive down that day, as my good friend knows, I just go down to the bottom of Capitol Hill, and there are two very nice hotels. There is a Hyatt Hotel and a Washington Court Hotel. I get a room in one of those hotels, assuming they have a vacancy.

I have been here 20 years. For the first 18 of those 20 years, I walked down to the hotel from here. It is four or five blocks.

Well, I am not allowed to walk down there anymore. And this is nothing but beautiful scenery, lovely park land,beautiful, stately Federal buildings owned by and revered by the people of the United States.

I do not go down there anymore on foot because about 5 months ago, I started down and right literally in front of the Hyatt Hotel, well lighted, in the gutter, a Congressman was found beaten and robbed and stabbed while people were standing around.

Now I say Congressman. It was a Congressman. It could have been a Senator or a tourist or someone who worked in the hotel.

I ask unanimous consent to proceed for one more minute.

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

Mr. BIDEN. And so, to make a long story not quite so long, I have to ride down with the Sergeant at Arms. They insisted I go down. The former Capitol Hill policeman driving me down told me that, on his way home in his neighborhood, he stopped at a 7-Eleven type convenience store and while a woman was pumping gas, someone came up, put a gun to her, took her automobile, and drove off. He followed that person. He followed the person, as a former police officer—this particular fellow who was giving me a ride down to the hotel.

He found the fellow, trapped him because the guy could not drive as well, got out of his automobile and went over to the car. And the fellow, I believe, I am not certain of this, I believe had a .9 millimeter pistol on the seat and turned and said, "Pal, don't. Just don't." And this guy just walked away.

These are real life experiences that happen every day.

So I commend the Senator for his interest and concern, but I hope we will follow the old rule of giving the States the money and resources to help them hire their local police to do the job.

I thank my colleagues, and I yield the floor.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank my friend from Delaware for his kind words.

I will just say very briefly, in the time remaining, on a personal basis, what a great pleasure it has been to work with him—always thoughtful, always eloquent, always, as he has just now, speaking not just from his head but from his heart.

The changes in behavior that the Senator from Delaware described in his own behalf are typical of what every American has done in the last several years—and it cannot go on. These changes in behavior are the acts of a very rational man who understands what is out there. And I think that is why we need the kind of penalties that are involved in this amendment.

Mr. President, I would just say this. I understand his concern about too great a federalization of the criminal laws. I will look forward to speaking to that on some other occasion.

In this case, there is already a Federal law against carjacking. In fact, more than 100 cases have been brought by U.S. attorneys in the last year.

In this case, the very bill I am amending has the death penalty for carjacking. All I am doing here is taking a small but I think significant additional step in saying, if the death penalty is going to be enacted into law for cases of carjacking where death occurs, then we ought not to require that that death have to involve a firearm. If the person in a carjacking is killed as a result of a knife or other weapon or just as a result of the carjacking, then the criminal ought to be subject to death himself. That is why I propose the amendment.

Mr. President I hope that I may eventually enjoy the support of the Senator from Delaware. I do not know that I will enjoy unanimous support in the Chamber because of those who oppose capital punishment.

So, in that sense, I ask when the vote be taken it be taken by the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. LIEBERMAN. I thank the Chair, and I yield the floor.

Mr. BIDEN. Mr. President, I ask unanimous consent that the vote on the amendment of the Senator from Connecticut take place to follow the completion of the vote on Senator Dole's amendment tomorrow.

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

Mr. BIDEN. Mr. President, I ask unanimous consent to get the yeas and nays on the Dole amendment.

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

Mr. BIDEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. BIDEN. Thank you, Mr. President.

I yield the floor.

AMENDMENT NO. 1142

(Purpose: To provide for programs for the prosecution of driving while intoxicated charges to be included in the Edward Byrne Memorial State and Local Law Enforcement Assistance Program)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for Mr. DOMENICI, proposes an amendment numbered 1142.

Mr. HATCH. 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, insert the following:

SECTION 1. DRIVING WHILE INTOXICATED PROSECUTION PROGRAM.

Section 501(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751), as amended by section 621, is amended—

(1) by striking "and" at the end of paragraph (22);

(2) by striking the period at the end of paragraph (23) and inserting "; and"; and

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

"(24) programs for the prosecution of driving while intoxicated charges and the enforcement of other laws relating to alcohol use and the operation of motor vehicles.".

Mr. DOMENICI. Mr. President I offer an amendment that will help our country address the continuing problem of suffering and financial losses due to accidents caused by drivers operating motor vehicles while under the influence of alcohol.

All of us are painfully aware of the psychological and physical costs and the fiscal implications which result from the carnage which we as a nation inflict upon ourselves every year on America's highways. Approximately 5 million of our constituents yearly are motor vehicle crash victims, costing employers 15 million days of lost time and $48.5 billion annually, according to some estimates. Drunk drivers are a major part of the problem. As a result, I am now introducing an amendment which will make a significant contribution to the attack on drunk driving throughout the country.

My amendment amends the 1968 Omnibus Crime Control and Safe Streets Act by adding a 22d category to the initiatives that States are allowed to spend money under the Edward Bryne Memorial State and Local Law Enforcement Program. My amendment would create a new category which will allow States to fund programs for the prosecution of driving under the influence charges and for the enforcement of laws relating to alcohol use and the operation of motor vehicles.

I want to stress to Senators that although I believe that my amendment is the right thing for states to do, it does not mandate they spend any of the funding they receive from the Edward Byrne Memorial grants for the purpose outlined in the amendment. My amendment simply provides them with the authority to do so if they so desire.

Mr. President, I believe my amendment is a step in the right direction. I ask my colleagues to support it.

Mr. HATCH. It is my understanding that this amendment is agreed to by both sides.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1142) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. LIEBERMAN. 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. BIDEN. 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. BIDEN. Mr. President, I am about to propound a unanimous-consent request. My distinguished friend from Connecticut has another amendment on drug emergency areas. I ask unanimous consent that we be able to proceed to the amendment with 30 minutes equally divided in the usual form.

Mr. HATCH. Will the Senator yield? Let us not agree to a time limit but proceed to the amendment, debate it tonight and get unanimous consent with regard to other amendments.

Mr. BIDEN. I amend my unanimous-consent request that we proceed to the LIEBERMAN amendment on drug emergency areas and that no second-degree amendments relating to guns be in order to the amendment, and that upon completion of the debate on the amendment tonight it be laid aside until there is unanimous consent to bring it back up.

That is my request.

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

Mr. LIEBERMAN. I thank the Chair and thank the Senator from Delaware.

AMENDMENT NO. 1143

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN] proposes an amendment numbered 1143.

Mr. LIEBERMAN. 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 insert the following:

SEC. . VIOLENT CRIME AND DRUG EMERGENCY AREAS.

(a) DEFINITION.—In this section, "major violent crime or drug-related emergency" means an occasion or instance in which violent crime, drug smuggling, drug trafficking, or drug abuse violence reaches such levels, as determined by the President, in consultation with the Attorney General, that Federal assistance is needed to supplement State and local efforts and capabilities to save lives, and to protect property and public health and safety.

(b) DECLARATION OF VIOLENT CRIME AND DRUG EMERGENCY AREAS.—If a major violent crime or drug related emergency exists throughout a State or a part of a State, the President, in consultation with the Attorney General and other appropriate officials, may declare the State or part of a State to be a violent crime or drug emergency area and may take any and all necessary actions authorized by this section and other law. For the purposes of this section, the term "State" shall be deemed to include the District of Columbia and any United States territory or possession.

(c) PROCEDURE.—

(1) IN GENERAL.— A request for a declaration designating an area to be a violent crime or drug emergency area shall be made, in writing, by the chief executive officers of a State and local government, respectively (or in the case of the District of Columbia, the mayor), and shall be forwarded to the Attorney General in such form as the Attorney General may by regulation require. One or more cities, counties, States, or the District of Columbia may submit a joint request for designation as a major violent crime or drug emergency area under this subsection.

(2) FINDING.—A request made under paragraph (1) shall be based on a written finding that the major violent crime or drug-related emergency is of such severity and magnitude that Federal assistance is necessary to ensure an effective response tosave lives and to protect property and public health and safety.

(d) IRRELEVANCY OF POPULATION DENSITY.—The President shall not limit declarations made under this section to highly populated centers of violent crime or drug trafficking, drug smuggling, or drug use, but shall also consider applications from governments of less populated areas where the mignitude and severity of such activities is beyond the capability of the State or local government to respond.

(e) REQUIREMENTS.—As part of a request for a declaration under this section, and as a prerequisite to Federal violent crime or drug emergency assistance under this section, the chief executive officer of a State or local government shall—

(1) take appropriate action under State or local law and furnish information on the nature and amount of State and local resources that have been or will be committed to alleviating the major violent crime drug-related emergency;

(2) submit a detailed plan outlining that government's short- and long-term plans to respond to the violent crime or drug emergency, specifying the types and levels of Federal assistance requested and including explicit goals (including quantitative goals) and timetables; and

(3) specify how Federal assistance provided under this section is intended to achieve those goals.

(f) REVIEW PERIOD.—The Attorney General shall review a request submitted pursuant to this section, and the President shall decide whether to declare a violent crime or drug emergency area, within 30 days after receiving the request.

(g) FEDERAL ASSISTANCE.—The President may—

(1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, financial assistance, and managerial, technical, and advisory services) in support of State and local assistance efforts; and

(2) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information; and

(h) DURATION OF FEDERAL ASSISTANCE.—

(1) IN GENERAL.—Federal assistance under this section shall not be provided to a Violent Crime or Drug Emergency Area for more than 1 year.

(2) EXTENSION.—The chief executive officer of a jurisdiction may apply to the Attorney General for an extension of assistance beyond 1 year. The President, in consultation with the Attorney General, may extend the provision of Federal assistance for not more than an additional 180 days.

(i) REGULATIONS.—Not later than 90 days after the date of the enactment of this Act, the Attorney General shall issue regulations to implement this section.

(j) NO EFFECT ON EXISTING AUTHORITY.—Nothing in this Section shall diminish or detract from existing authority possessed by the President or Attorney General.

Mr. LIEBERMAN. Mr. President, this amendment would give the mayors and Governors of our country, chief elected officials of States and localities, the opportunity to petition the President of the United States to declare a violent crime or drug emergency in their States or locality, making them eligible for special Federal assistance to fight back against local crime problems that have simply gone beyond their ability in the short term to control.

Crime is reaching unprecedented levels across our Nation. Over the past three decades, the number of crimes reported has increased from one crime per police officer in 1961 to five crimes per officer in 1991. The rise in the number of violent crimes has been particularly shocking. Violent crimes rose 14 percent between 1980 and 1988, and then 23 percent between 1988 and 1991. In addition, during the last 4 years, rapes have jumped 17 percent, robberies 33 percent, and aggravated assaults 28 percent.

Even more startling and disturbing is the callous disregard for human life which is evidenced in existing data on crime. Last year, 24,000 Americans were murdered, many in drug and gang-related activities.

We clearly must do everything in our power to reverse these disturbing trends. Crime is literally ripping apart the social fabric of our communities. As noted, in the Public Policy Institute's "Mandate for Change, crime * * * turns strangers into enemies, unfamiliar ground into dangerous turf, and random social contact into risky business. When crime afflicts a neighborhood, those who can avoid it, stay away; those who cannot, suffer alone. The former become isolated, the latter abandoned."

So many of our neighbors, particularly our elderly citizens, are prisoners in their homes, especially at night, when the world outside becomes a forbidden zone. Just glance at the news on any given night reveals this growing madness in our society.

During the last several months, I travelled throughout my home State of Connecticut and met with police, prosecutors, prison officials, community officials, and countless citizen to discuss the problem of crime and Government's response to it. The underlying message conveyed to me in these meetings was the public's fear and yearning for Government to secure and protect their personal safety.

We in Congress have a special responsibility to take crime seriously and return to the public the sense of security that has been snatched from them in recent years. Indeed, we have a constitutional responsibility to ensure domestic tranquility. We must restore their faith in Government's ability and capacity to deal effectively with the crime problem. I believe my amendment takes an important step in that direction by increasing Federal support for the war on crime.

Mr. President, there are times and places when criminals get the upper hand in a neighborhood or a city, and local and State authorities do not have the resources to adequately safeguard people's lives. That is when the Federal Government must be able to rush in with the personnel, equipment and other resources needed by law enforcement agencies to strike back against gangs, drug traffickers, and other violent criminals.

In these instances, this amendment will give the President, upon consultation with the Attorney General, the power to declare that a violent crime or drug emergency exists in a State, community, or neighborhood. In doing so, the President would direct the agencies of the Federal Government to provide emergency Federal assistance to the designated area so as to supplement State and local efforts to save lives and protect property, public health, and safety.

That assistance can come in the form of personnel, equipment, supplies, facilities, financial assistance, and managerial, technical and, advisory services, including communications support and law enforcement-related intelligence information. Requests for declaration of an emergency must be made in writing by the Governor and chief executive officer of any affected State and local government. The President must act on these requests within 30 days.

I believe the case for this is reinforced by recent events in Hartford, CT. Facing a particularly violent rash of gang activity in Hartford, city government and law enforcement officials launched Operation Liberty—an aggressive State and local effort to reduce violence in a number of targeted neighborhoods throughout the city. In an attempt to supplement and bolster local law enforcement efforts in dealing with this emergency, the State has provided additional police officers and other forms of tactical support sorely needed in certain areas of the city.

While there is still much work to be done, preliminary reports are encouraging. The Hartford Courant recently reported that there is little dispute that violence and gang activity has been reduced dramatically. As a result of these coordinated efforts, citizens in affected areas are regaining a sense of security that was stripped from them by these gangs. There has also been a drop in the number of assaults against police officers.

I believe that the priorities outlined in this amendment must be enacted into law if we are serious about fighting crime on a national basis. Declaring a neighborhood, a city, or a State a violent crime or drug emergency area will have two immediate, positive effects:

First, it would be a powerful signal to lawbreakers that all of society takes their crimes seriously—not just their victims, not just the local cops. But everyone up to and including the President of the United States and the Attorney General knows that they are up to, and are willing to fight back. I have every confidence that it would send a chill down the spines of wrongdoers, just as it would give a sigh of relief to the beleaguered citizens living under the yoke of crime.

The second benefit of this strategy would be an immediate infusion of added resources, including manpower, equipment, financial assistance, and other logistical assistance, into a crime-plagued region, quickly bolstering the limited scope of local police, and giving the law enforcement overwhelming force to use against lawbreakers. Too often, our local police are in unfair fights.

While there will be critics of the medicine I prescribe to help remedy this national ailment, I fully expect the biggest supporters of this idea will be the people who live in those neighborhoods where crime has taken over. It is they who would welcome the arrival of the Federal help with hope and open arms.

As the Senator from Delaware said earlier, in this bill we are taking the Federal Government into a new cooperative relationship with the States and localities in trying to fulfill our constitutional responsibility to provide for domestic tranquility, which certainly does not exist in too many neighborhoods of our country now.

Clearly, as the Senator from Delaware said, there is a limit to how far we can go in federalizing the criminal law. But we have taken the right step

in recognizing that we have this authority, and we have done so in a way that is meaningful. Again, not just with rhetoric but with serious proposals and on a bipartisan basis, we have put forward the money to make those proposals real. Thus, this extraordinary response to the fact that too many criminals are going through the revolving doors because there is not enough jail space to put them into, and we have provided billions of dollars to help the States and localities build jails. Thus the fact, acknowledging our Fereral responsibility, we have provided these billions of dollars to put 100,000 more police out onto the streets. And we have also added to the Federal criminal law, providing the extra deterrent that the Federal system enables us to provide.

I have spent a fair amount of time in recent months around my State talking to police, prosecutors, citizens, judges. There is an interesting fact that I can report to the Chamber. While there are some—including some editorial writers—some Federal judges in fact, who decry the so-called federalization of the criminal law, when I talk to the local police and the local prosecutors they say to me one of the best things that has happened in the fight against crime in recent years is that we have added a Federal punch to the criminal law, that we have created task forces throughout this country bringing together Federal, State and local investigators, enforcers, prosecutors. As more than one police officer and prosecutor in my State has said to me, the one part of the criminal justice system that is working today is the Federal part, because the criminals know that, and local prosecutors are using Federal law to target the worst of the local criminals, involved in the most serious of local crimes.

They know if arrested under the Federal law they almost always will be taken to trial, because the Federal courts have that capacity. And, if convicted, they will almost always go to jail, and they will go to jail for a good long period of time as they should under the mandatory minimum sentencing provisions of Federal law.

So we have taken some serious steps forward in bringing the Federal Government to a reasonable partnership with the States in protecting law-abiding citizens from crime. This is the next step I am proposing.

It says that when a community and its police officers are simply outgunned and outmanned—as has happened in too many areas of our country—by the criminals, that the chief elected officials of the local areas and of the States can turn to the President and say, as they do in the case of a natural disaster—a flood, a hurricane, a fire—"Mr. President, we need the help of the Federal Government for short term to come in and help us to restore basic order."

The President, under this proposal, will have the ability to bring together existing Federal resources and send them in to help people in the local area. We have a special responsibility, I think, Mr. President, to help to make that happen.

This amendment will give the President, upon consultation with the Attorney General, the power to declare that a violent crime or drug emergency exists in a State, community or neighborhood. In doing so, the President would direct the agencies of the Federal Government to provide emergency Federal assistance to the designated area so as to supplement State and local efforts to save lives and protect property, public health, and safety.

The Federal Government, the President, and the Attorney General will be able to rush in with the personnel, equipment, financial assistance and other resources needed by local law enforcement agencies to strike back against gangs, drug traffickers or other violent criminals.

Requests for declaration of an emergency under this amendment must be made in writing by the Governor and Chief Executive officer of any affected State and local Government, and the President, under the amendment, would be required to act on those requests within 30 days. Of course, we hope that the President would act much more rapidly.

I do want to stress, in terms of the concerns about who controls law enforcement, that any Federal personnel, any Federal equipment sent by the President to help local police would be under the administrative authority of the local police chief or the highest law enforcement official in that jurisdiction, pursuant to terms negotiated prior to deployment among the parties.

Mr. President, I believe the case for this amendment was reinforced by recent events in the capital city of my State of Connecticut. Facing a particularly violent rash of gang activity in Hartford, literally a war between two gangs that effectively took over control of one of the great historic neighborhoods of Hartford, CT, city government and law enforcement officials turned to the State of Connecticut and said: "We need help."

The State responded under a new law that Connecticut has that enables the Governor and the public safety commissioner to dispatch State troopers to help local law enforcement officials in much the same way this amendment would authorize the President of the United States and the Attorney General to send Federal help to local law enforcement officials.

In Hartford, State and local officials formed something called Operation Liberty, an aggressive joint effort to reduce violence in a number of these targeted neighborhoods throughout the city. In an attempt to supplement and bolster local law enforcement efforts in dealing with this emergency, the State provided additional police officers and other forms of tactical support.

While there was much work to be done, I am pleased to say that the reports of what happened were encouraging. The Hartford Current reported in an editorial that there was little dispute that violence in gang activity as a result of the additional personnel and equipment in that neighborhood was reduced. In fact, the crime rate generally dropped by more than 15 percent. As a result of these coordinated efforts, citizens in affected areas regained a sense of security for that period of time, a sense of security that was taken away from them by those gangs.

I must say that I spoke to a woman in one of those neighborhoods during one of my walks through one of those neighborhoods and she said to me:

> Senator, I know that when the State troopers arrived and when the extra police came into our neighborhood, some people might say that this place looks like a police state. But you know what, Senator, I felt comfortable. I felt secure for the first time in too long a time. I felt that I could go out of my house, walk in my neighborhood without fear of being the victim of crime, without fear of being an unintended bystander caught in a crossfire.

I believe that the priorities outlined in this amendment should be enacted into law to continue the expression that is so much a part of this bill, that we are really serious about fighting crime on a national basis.

Declaring a neighborhood or a city or a State a violent crime or drug emergency area will have at least two effects that go beyond the direct help that will be provided by Federal personnel and perhaps even Federal financial assistance.

First, I believe it would be a powerful signal to the lawbreakers that all of society takes their crime seriously, not just their local victims, not just the local cops, but everyone up to and including the President of the United States and the Attorney General of the United States know what those criminals are up to and that we are willing to fight back. I am hopeful that it will send a chill down the spines of these criminals, just as it would give a sigh of relief to the beleaguered citizens living under the yoke of crime.

Mr. President, the second benefit of this strategy, I think, would be an immediate infusion of added resources, including, again, personnel, equipment, financial assistance and other logistical assistance into a crime-plagued region, giving the President the power, as he does in a natural disaster, to effectively say that these violent crime and drug emergency areas have become unnatural disasters, man-made disasters, and to take the resources provided to the President, to the Justice Department under existing law and focus them for a limited period

of time into this area where the local police simply are unable themselves to return control and security because they have been put in an unfair fight.

I know that there may be some who will question this remedy, but I believe that the biggest supporters of this proposal will be the people who live in those neighborhoods where the gangs have taken over. It is they who will welcome the arrival of Federal help with hope and with open arms.

I hope that the Senate will agree with me, support this amendment, and provide this other means of help to our local and State law enforcement officials.

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

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, once again, let me compliment my friend from Connecticut. Back years ago when I first drafted the drug czar legislation—and it passed—and we had the first Presidential finding on what our national drug strategy should be, we had the first so-called drug bill. And in that bill, I introduced the concept called drug emergency areas whereby we would treat drug emergency areas and identify them the same way we do natural disasters.

No one bats an eye in this town or this Nation—nor should they—I might add, when the poor people of Iowa and Missouri, and Kansas and Nebraska are flooded by the Platte, Missouri and Mississippi Rivers and are wiped out. No one bats an eye when the people in the Los Angeles area suffer the ravages of the consequences of an arsonist, apparently, and the Santa Ana winds combining to rob them of their homes and their livelihoods and their lives. No one thinks twice when Hurricane Andrew comes ripping through the State of Florida and all the way through Louisiana, wreaking havoc on anything in its path. They are true national natural disasters and emergencies.

As the Senator from Connecticut knows, as well as anyone, having been a former attorney general of the State, there are neighborhoods, towns, entire sectors of cities that are natural disaster areas because they are drug emergency areas.

I can take you to Philadelphia, Armingo Avenue; I can take you, I suspect, to parts of New Haven; I can take you to parts of Wilmington, DE, towns in my State, as small as the State is, where the drug trade has literally—not figuratively, literally—taken over a section of the town—armed persons on the street, plying and selling their wares, occasionally shooting each other for control of a corner, people afraid to walk out of their homes, overwhelming local police, because, as the Senator knows, when the major drug cartels, whether they are Colombian, Jamaican, Mafia, whatever the nature of the cartel, decide to move into an area, they do not move in in a small way. They move in with firepower, financial power, organizational power, and they overpower a community.

This is an example of what I was talking about before. This is where the Federal Government over the past 40 years has developed a genuine expertise, where we have a capability that far exceeds any State capability. No matter how incredibly competent major State law enforcement agencies are, they pale in comparison to the capabilities that exist at the Federal level.

When I introduced the last Biden bill that was filibustered for 2 years by my Republican colleagues, I went even further. I had $300 million in the bill for drug emergency areas, allowing the President to designate drug emergency areas.

I think we have to think in terms of natural disasters. If you ask me whether or not I would rather a hurricane come through my neighborhood where I live on a one-time occasion or you gave me the awful alternative of having a Jamaican organized crime ring move in peddling drugs or the Mafia or the Colombian cartel or the Cali cartel move in to take over my neighborhood, at least I know what the hurricane is. If I make it past that hour, I will live and I can reconstruct my life; my children, if they make it through that hurricane, will live. We will have financial deprivation; we may have serious injuries, but we can rebuild.

People who have these cancerous organizations move into their neighborhoods in towns and cities, it is not a one-time event. It is a lifetime event.

I strongly support the Senator. He does not even ask for additional money. He asks only for the authority of the President to declare an area a drug emergency area and use existing Federal resources to come to the aid of that locality. This is a place where a true Federal-State partnership should exist. This is a place where we can bring to bear the significant resources of the Federal Government.

I might add that my friend from Utah, in his addition to my rural crime initiative in this bill, provided the ability to do something like this. We added a number of drug enforcement agents who are able to go into rural communities and do the kind of thing the Senator from Connecticut is asking to do on a larger scale in areas where the cancer has spread. But make no mistake about it, there is no exaggeration on the part of the Senator from Connecticut when he says this is a real need. This is literally like a cancer in the body politic when these major drug trafficking organizations literally take over cities, parts of cities.

Let me conclude by saying I mentioned earlier that occasionally, since I do not have an apartment or home in Washington, I stay overnight at a local hotel. It is more practical and more frugal to do it that way. I will get back to the hotel at night and turn on the television. They have these movie channels on. There are more movies now—my wife and I are moviegoers at the local movie theaters—and you see the previews for coming attractions. I want the Senator to know how many upcoming movies and grade B movies are now on the air which have as their premise that it is the year 1999 or 2005, and entire sectors of cities have been overtaken by drug gangs. The theme of the movie is having it go out and get some Robocop or some supercop or some madman or some Sylvester Stallone-type character to go in to no man's land. That is a Hollywood exaggeration of what exists now. Some of these areas are literally a no man's land, but real, live, decent people live in that no man's land. This is an area where the Federal Government can, should, and I believe must help local law enforcement with the considerable expertise and experience we have to bear.

I hope, when the time comes for us to vote on this tomorrow, the majority of my colleagues will agree with the Senator from Connecticut, as I do, and vote to support his legislation.

Mr. BIDEN. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank the Chair and I thank my friend and colleague from Delaware for his very powerful statement and, of course, for his support of this amendment. I really wish to thank him in a more general and historic sense—not so historic—for the fact that it was his original legislation which is the inspiration for this amendment.

The amendment grew out of experiences that we have had in Connecticut, some of the extraordinarily positive experiences with the local-State-Federal task forces. As we began to fashion the amendment, we looked back at work the Senator from Delaware had done. This seemed like the perfect response to it.

I wish to share with my friend and colleague an experience which validates so much of what he says about what has happened in too many neighborhoods in our country and leads to the kinds of films that the Senator referred to.

A while ago, the chief states attorney of Connecticut, John M. Bailey, Jr., convened what he called a summit on crime, with police officials, prosecutors, State and local, Federal legislators, and we saw there a tape I had heard about in the last 2 or 3 months from various local law enforcement officials in Connecticut that startled me, as bad as we know things are.

It was a tape taken by the resident of a neighborhood in Bridgeport, CT, out

his window one evening and night. If you saw the tape, you would be embarrassed to believe that this was America. You would think it was another country that we too often have looked down on, or we say, OK, that happened somewhere else. Frankly, it looked like a war zone.

The situation I will describe briefly to the Senator is this: The day before, a gang that controlled this particular neighborhood for the purpose of drug sales and distribution had its quarters raided by the local police. I believe—I am not sure—that the BATF may have been involved. The target of the raid was the weapons possessed by this gang. A tremendous arsenal was seized. Word got out that this had occurred. These gang members apparently were fearful that other gangs, hearing that they had been disarmed, would come in to try to take over their territory in this neighborhood. I do not know the means, but they either went out and acquired another arsenal immediately that day or they had something else hidden that the police did not find.

And there you see on the streets of Bridgeport, CT—and this tape was taken by a citizen, a videotape—individuals walking with semiautomatics, long guns, on the streets in clear view essentially, and on the sidewalks, walking in the streets as if to say this is our territory, stay out of it.

Mr. BIDEN. Looked like Somalia.

Mr. LIEBERMAN. Looked like Somalia, looked like Beirut at an earlier time, at one point they were shooting up at the streetlights, lights that the local police had just replaced because they had earlier been shot out as a way to maintain darkness which would provide the cover for drug sales.

Incidentally, one of the terrifying—we laughed but it was a rueful laugh. It took one of these guys probably 10 shots to knock out the streetlight, not a very good shot, and yet possessing a very powerful weapon. Obviously, you worry about the impact if he were shooting at another individual on the street.

You see in this film a mother walking by with a child, apparently coming from shopping. These guys are walking around with automatic weapons strung over their shoulders.

Mr. President, that is an extreme case, but too often in too many neighborhoods of our country that case is replicated or comes close to it. That is what this is all about.

I would add just a few points again just to stress this. The Federal, State, and local task forces that have been set up in part by the former director of the FBI, Judge Sessions, who came under some criticism on different matters. Nonetheless, it showed some real leadership in setting up these task forces, playing a key role in establishing, along with the previous Attorney General—which have worked magnificently with State and local police, bringing to bear FBI agents, DEA agents, when appropriate Immigration or Customs agents, using the U.S. attorneys, working State and local police. And, basically, in Connecticut State and local police saying this gang is controlling this neighborhood, Federal Government, we need your help, come in with your extra surveillance capacity, your sophisticated investigative help.

In New Haven, for instance, a gang known as the Jungle Boys occupied a housing project, literally occupied it, chose it because they assumed the residents would not object, and also because it was right adjacent to the interstate highway—laughable when you think about it, providing kind of an easy-on, easy-off access for drug purchasers, mostly from the suburbs, coming in to New Haven from the suburbs—took it over, and victimized the people in the project. Ultimately, the local police acknowledged they could not deal with it, and brought the Federal agents in.

It is a long and complicated story. But basically they made several arrests, and sent the two leaders of this gang away to Federal prison for 21 and 28 years, respectively.

That is the kind of cooperation this amendment is intended to build on.

Mr. President, as the Senator from Delaware said, I have not included in this amendment any specific funding. I have given authority here, this amendment gives authority to the President and the Attorney General to utilize resources available under law.

My hope is that some of the resources that are, in fact, made available under this law would be used by the President to respond to a local violent crime or drug emergency.

I have some hope in believing that there may be additional amendments, agreed to on a bipartisan basis, that will provide more funds for more U.S. attorneys to prosecute, more FBI agents to be involved in the war against crime, perhaps more DEA agents to help with drug emergencies.

And those extra resources provided under law, hopefully, will be at the call of the President to organize and target these areas that have just gone out of control and, quite literally, have become violent crime and drug emergency areas. The words that the chairman of the Judiciary Committee spoke are just right.

We have natural disaster areas. No one objects. Everyone supports the President when he goes in and helps areas, as he has now recently with the fires in California.

These are unnatural disasters caused by crime in too many of our cities and towns. I think it is time to give the President that same authority to come to the aid of local law enforcement and the people, the law-abiding people, who live in those cities and towns.

Mr. President, I again thank the Chair. I thank my friend from Delaware.

I ask that when the vote be taken on this amendment it be taken by the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. BIDEN. Mr. President, I ask the Senator to withhold the request for the yeas and nays, not that we will not give him the yeas and nays. But since we have no time agreement at this point, not because he does not, but we cannot get one on the other side, as well as one amendment may be in order.

So if he will withhold that until tomorrow, I assure him if he wants a vote, he will get a vote on this.

Mr. LIEBERMAN. I thank the Senator. I withhold until tomorrow.

Mr. BIDEN. Let me say to my friend from Connecticut, Mr. President, that in the last crime bill that I wrote we had provisions to provide for a significant increase in the number of FBI agents and prosecutors. It is my intention, and we are working out the details now at the urging of my friend from Connecticut and others, that in this bill we provide for over 5 years and up to $1 billion for additional Federal assistance relative to prosecutors and FBI agents in order to accommodate the kind of things he is talking about.

I really do think this is, as characterized by the Senator from Utah, what we have done so far if we pass it, the most significant, sweeping, and bold effort that the Federal Government has ever undertaken relative to dealing with crime in America.

I might add it is also probably the most often-called-for help that we have had as Senators from our people.

I understand that my friend from Connecticut had another amendment that both sides are prepared to accept. I do not know whether it is appropriate at the moment. But if the Senator is prepared to move on that amendment, we would be delighted to accept that amendment.

Mr. LIEBERMAN. Mr. President, I am prepared to move, and with the approval of the Senator from Delaware, I will send the amendment to the desk at this time.

The PRESIDING OFFICER. Is there objection to temporarily laying aside the pending amendment? Without objection, it is so ordered.

AMENDMENT NO. 1144

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], for himself and Senator D'AMATO, proposes an amendment numbered 1144.

Mr. LIEBERMAN. 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 insert the following:

SEC. . PROTECTION OF RECIPIENTS IN TERRORISM REWARDS PROGRAM.

(a) COUNTERTERRORISM REWARDS PROGRAM.—Section 36(e) of the State Department Basic Authorities Act (22 U.S.C. 2708) is amended—

(1) by inserting "(1)" immediately after "(e)"; and

(2) by adding the following to the end of section 36(e);

"(2) RELOCATION OF PROGRAM PARTICIPANTS.—

(A) Whenever the information that would justify a reward under subsection (a) is furnished by an alien, and the Secretary of State and Attorney General jointly determine that the protection of such alien or members of the immediate family of the alien requires the admission of such alien or aliens to the United States, then such alien and the members of the immediate family of the alien, if necessary, may be admitted to the United States without regard to the requirements of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) and shall be eligible for permanent residence as provided in paragraph (4)(A) below.

"(B) The total number of aliens admitted to the United States under subparagraph (A) shall not exceed 25 in any fiscal year.

"(3) CONDITIONS OF ENTRY FOR REWARDS FOR PROGRAM PARTICIPANTS.—(A) Any alien admitted under subsection (e) who otherwise would be inadmissible under sections 212(a)(2) or 212(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1182) shall be admitted and permitted to remain in the United States on the condition that the person: (i) shall have executed a form that waives the alien's right to contest, other than on the basis of an application for withholding of deportation, any action for deportation of the alien instituted before the alien obtains lawful permanent resident status, (ii) is not convicted of any criminal offense in the United States since the date of such admission, and (iii) shall report not less often than quarterlyto the Commissioner of the Immigration and Naturalization Service such information concerning the alien's whereabouts and activities as the Secretary of State and the Attorney General may require.

"(B) The Secretary of State and the Attorney General shall submit a report annually to the Committees on the Judiciary of the House of Representatives and of the Senate concerning (i) the number of such aliens admitted, (ii) the number of terrorist acts prevented, frustrated, or thwarted or prosecutions or investigations resulting from cooperation of such aliens, and (iii) the number of such aliens who have failed to report quarterly (as required under paragraph (3)(A)(i)(I) or who have been convicted of crimes in the United States after the date of their admission.

"(4) ADJUSTMENT TO PERMANENT RESIDENT STATUS.—(A) If, in the opinion of the Attorney General, in consultation with the Secretary of State, the alien admitted into the United States under section 36(e) of the State Department Basic Authorities Act has supplied information that has contributed to the prevention, frustration, or favorable resolution of a terrorist act or has substantially contributed to an authorized investigation or the prosecution of an individual described in section 36(a) (1) and (2) of such section, the Attorney General may adjust the status of the alien (and the alien's immediate relatives if admitted under such section) to that of an alien admitted for permanent residence if the alien is not described in section 212(a)(3)(E) of the Immigration and Nationality Act, provided further that if the alien is subject to paragraph (3)(A) above, such adjustment may be made not earlier than 3 years after the date of admission and upon a determination by the Attorney General in consultation with the Secretary of State that the conditions of paragraph (3)(A) (i) through (iii) have been met.

"(B) Upon the approval of adjustment of status under subparagraph (A), the Attorney General shall record the alien's lawful admission for permanent residence as of the date of such approval and the Secretary of State shall reduce by one the number of visas authorized to be issued under sections 201(d) and 203(b)(4) of the Immigration and Nationality Act for the fiscal year then current."

(b) EXCLUSIVE MEANS OF ADJUSTMENT.—Section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)), as amended by section 725, is further amended by striking "or" before "(5)" and by inserting before the period the following: "; or (6) an alien who was admitted pursuant to section 36(e) of the State Department Basic Authorities Act".

(c) EXTENDING PERIOD OF DEPORTATION FOR CONVICTION OF A CRIME.—Section 241(a)(2)(A)(i)(I) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)(A)(i)(I)), as amended by section 725, is further amended by inserting "or section 36(e)(4)(A) of the State Department Basic Authorities Act" after section 245(h) in the parenthetical "(or 10 years in the case of an alien provided lawful permanent resident status under section 245(h))".

Mr. LIEBERMAN. Mr. President, may I say that I am pleased to be joined in offering this amendment by my friend and colleague from New York, Senator D'AMATO.

The amendment concerns terrorism. Unfortunately, Senator D'AMATO has not only been a great fighter against terrorism, but he has been targeted by terrorists, as the Senate knows, all too well.

Mr. President, the World Trade Center bombing earlier this year put a lie to the predictions that terrorist acts against Americans were in decline and that the United States was invulnerable to foreign-sponsored terrorism. Our law enforcement and counterterrorist experts have done an extraordinary job in pursuing that case, the World Trade Center case, and others in recent years.

This amendment would give them, those who are involved in antiterrorism, the authority to act in a way that will be helpful in pursuing their aims.

This amendment, Mr. President, would induce those with information that might prevent a terrorist attack or would aid in the capture or prosecution of a terrorist to come forward and assist the United States.

Mr. President, the vast majority of thwarted terrorist attacks and successful prosecution of terrorists are dependent on the cooperation of defectors or informants, and of witnesses, those involved directly, as has been the case as we know in the World Trade Center bombing.

Frequently, these are not American citizens. But they are critically important in providing information that, one, can allow law enforcement to stop the terrorist act before it occurs, or two, if it does occur, can enable law enforcement to prosecute the terrorists and bring them to justice.

There is currently a small interagency program that provides financial rewards to those who assist the United States. But no amount of money is likely to persuade a person to come forward with information, unless he or she has the confidence that they will be protected against reprisals by the terrorists. Outside of the United States, where most of these potential defectors, informants, and witnesses live, it is often difficult for American law enforcement to provide such protection. A small number of those individuals must be relocated to the United States very quickly—sometimes overnight—and their identities must be protected.

This is just like the witness protection program that the Federal Government has used so successfully in other crimes, particularly in breaking the back of organized crime.

So this amendment would allow the Secretary of State and the Attorney General to determine jointly when an alien or a member of an alien's immediate family needs to be admitted to the United States for protection because he or she has provided information or assistance to the United States in preventing an act of terrorism or in arresting or prosecuting terrorists. The total number of aliens admitted to the United States annually under this program would not exceed 25, including close family members. Once in the United States, participants would have to comply with all laws and follow even stricter Immigration and Naturalization Service procedures than those applicable to any alien lawfully admitted to the United States.

In February 1992, I held a hearing in the Governmental Affairs Committee exploring the difficulties that those in charge of our counterterrorism programs were having in gaining INS authority to admit persons who had assisted the United States and needed our protection. Among those were a number of people who helped thwart major terrorist acts during the gulf war or who were critical to prosecutions abroad of foreign terrorists who had attacked American citizens or property.

Mr. President, my hearing focused on one terrorist defector, whom I consider to be one of the true heroes of the international battle against terrorism.

At the cost of his freedom, his safety and his identity, this man turned his back on the Iraqi terrorist who once counted him as an ally. He provided critical information that prevented the bombing of an international hotel in Geneva, provided information useful during the gulf war regarding the location of underground bunkers, which he had helped to construct, and most recently was the key witness in the successful prosecution in Greece of one of the world's most notorious terrorists, Mohammed Rashid. His dismal experiences with the INS—even though he had the support of the State Department, the FBI and the Marshals Service acting on his behalf in his attempt to bring close family members here—convinced me that something needed to be done to help others like him who needed the assurance that he and his family—if they had the courage to stand up to terrorists—would be protected. Believe it or not, it took 10 years to straighten out his immigration status. Only this month, could his family members, close family members, get tourist visas to visit him.

Following the hearing I introduced legislation similar to the amendment I am offering today. A similar provision was included in the administration's State Department fiscal years 1994-95 authorization bill but, unfortunately, was removed in understandable deference to the Judiciary Committee's jurisdiction and in anticipation that this crime bill would again offer a provision and opportunity to facilitate entry into the United States of people who cooperate in Federal or State Government investigations of organized crime.

So this amendment addresses a different category of people who have helped prevent or resolve a terrorist act, people who may never have been part of a terrorist organization and may be needed for future investigations or trials outside or within the United States.

Mr. President, I am pleased to say that this amendment has the support of those within our Government who are battling terrorism and protecting Americans here and abroad every day. Again, I say that I am pleased to have the support of the Senator from New York [Mr. D'AMATO] who joins me as a cosponsor and whose record as a forceful and persuasive advocateon behalf of our Nation's counterterrorism program is well known.

Finally, I must say I am particularly grateful to have the support of the chairman of the Judiciary Committee, Senator BIDEN, and the ranking Republican, Senator HATCH, two other Members of this Chamber who, of course, can always be counted on in their various leadership roles, in Judiciary and Foreign Affairs, to aid the Nation's counterterrorism efforts.

I thank the Chair and I yield the floor.

Mr. BIDEN. Mr. President, once again, I congratulate the Senator from Connecticut. This is a very worthwhile amendment. Quite frankly, it is an area that we overlooked prior to his calling it to the Nation's attention and the attention of this Chamber. Senator HATCH and I have cleared it on both sides and are anxious to accept the amendment.

The PRESIDING OFFICER. Is there further debate.

The question is on agreeing to the amendment.

The amendment (No. 1144) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 1145

(Purpose: To encourage States to establish registration and tracking procedures and community notification with respect to released sexually violent predators)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator, from Washington [Mr. GORTON] proposes an amendment numbered 1145.

Mr. GORTON. 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 183, between lines 11 and 12, insert the following new subtitle:

Subtitle ___—Sexually Violent Predators

SEC. ___01. SHORT TITLE.

This subtitle may be cited as the "Sexually Violent Predators Act".

SEC. ___02. FINDINGS.

Congress finds that—

(1) there exists a small but extremely dangerous group of sexually violent persons who do not have a mental disease or defect.

(2) persons who are sexually violent predators generally have antisocial personality features that—

(A) are not amenable to mental illness treatment modalities in existence on the date of enactment of this Act; and

(B) render the persons likely to engage in sexually violent behavior;

(3) the likelihood that sexually violent predators will repeat acts of predatory sexual violence is high; and

(4) the prognosis for curing sexually violent predators is poor and the treatment needs of the population of the predators are very long-term.

SEC. ___03. DEFINITIONS.

As used in this subtitle:

(1) MENTAL ABNORMALITY.—The term "mental abnormality" means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes the person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.

(2) PREDATORY.—The term "predatory", with respect to an act, means an act directed towards a stranger, or a person with whom a relationship has been established or promoted, for the primary purpose of victimization.

(3) SEXUALLY VIOLENT OFFENSE.—The term "sexually violent offense" means—

(A) an act that is a violation of title 18, United States Code; or State criminal code that—

(i) involves the use or attempted or threatened use of physical force against the person or property of another person; and

(ii) is determined beyond a reasonable doubt to be sexually motivated.

(4) SEXUALLY VIOLENT PREDATOR.—The term "sexually violent predator" means a person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses.

SEC. ___04. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—

(1) STATE GUIDELINES.—In accordance with this section, the Attorney General shall establish guidelines for State programs to require a sexually violent predator to register a current address with a designated State law enforcement agency upon release from prison, being placed on parole, or being placed on supervised release. The Attorney General shall approve each State program that complies with the guidelines.

(2) STATE COMPLIANCE.—

(A) IMPLEMENTATION DATE.—A State that does not implement a program described in paragraph (1) by the date that is 3 years after the date of enactment of this Act, and maintain the implementation thereafter, shall be ineligible for funds in accordance with subparagraph (B).

(B) INELIGIBILITY FOR FUNDS.—

(i) IN GENERAL.—A State that does not implement the program as described in subparagraph (A) shall not receive 10 percent of the funds that would otherwise be allocated to the State under section 506 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756).

(ii) REALLOCATION OF FUNDS.—Funds made available under clause (i) shall be reallocated, in accordance with such section, to such States as implement the program as described in subparagraph (A).

(b) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, OR SUPERVISED RELEASE.—

(1) IN GENERAL.—An approved State program established in accordance with this section shall contain the requirements described in this section.

(2) The determination that a person is a "sexually violent predator" and the determination that a person is no longer a "sexually violent predator" shall be made by the sentencing court after receiving a report by a board of experts on sexual offenses. Each State shall establish a board composed of experts in the field of the behavior and treatment of sexual offenders.

(3) NOTIFICATION.—If a person who is required to register under this section is anticipated to be released from prison, paroled, or placed on supervised release, a State prison officer shall, not later than 90 days before the anticipated date of the release or commencement of the parole—

(A) inform the person of the duty to register;

(B) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing not later than 10 days after the change of address;

(C) obtain the name of the person, identifying factors, anticipated future residence, offense history, and documentation of any treatment received for the mental abnormality or personality disorder of the person; and

(D) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(4) TRANSFER OF INFORMATION TO STATE AND THE FBI.—Not later than 3 days after the receipt of the information described in paragraph (2), the officer shall forward the information to a designated State law enforcement agency. As soon as practicable after the receipt of the information by the State law enforcement agency, the agency shall—

(A) enter the information into the appropriate State law enforcement record system and notify the appropriate law enforcement agency that has jurisdiction over the area in which the person expects to reside; and

(B) transmit the information to the Identification Division of the Federal Bureau of Investigation.

(5) QUARTERLY VERIFICATION.—

(A) MAILING TO PERSON.—Not less than every 90 days after the date of the release or commencement of parole of a person under paragraph (2), the designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person.

(B) RETURN OF VERIFICATION FORM.—

(i) IN GENERAL.—The person shall return, by mail, the verification form to the agency not later than 10 days after the receipt of the form. The verification form shall be signed by the person, and shall state that the person continues to reside at the address last reported to the designated State law enforcement agency.

(ii) FAILURE TO RETURN.—If the person fails to mail the verification form to the designated State law enforcement agency by the date that is 10 days after the receipt of the form by the person, the person shall be in violation of this section unless the person proves that the person has not changed the residence address of the person.

(6) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESSES.—Any change of address by a person required to register under this section that is reported to the designated State law enforcement agency shall as soon as practicable be reported to the appropriate law enforcement agency that has jurisdiction over the area in which the person is residing.

(7) PENALTY.—A person required to register under a State program established pursuant to this section who knowingly fails to register and keep the registration current shall be subject to criminal penalties in the State. It is the sense of Congress that the penalties should include imprisonment for not less than 180 days.

(8) TERMINATION OF OBLIGATION TO REGISTER.—The obligation of a person to register under this section shall terminate on a determination made in accordance with the provision of paragraph (2) of this section that the person no longer suffers from a mental abnormality or personality disorder that would make the person likely to engage in a predatory sexually violent offense.

(c) COMMUNITY NOTIFICATION.—The designated State law enforcement agency may release relevant information that is necessary to protect the public concerning a specific sexually violent predator required to register under this section.

(d) IMMUNITY FOR GOOD FAITH CONDUCT.—Law enforcement agencies, employees of law enforcement agencies, and State officials shall be immune from liability for any good faith conduct under this section.

The PRESIDING OFFICER. Without objection, amendment No. 1143 will be set aside temporarily.

Mr. GORTON. Mr. President, the purpose of the amendment is to encourage States to establish registration and tracking procedures and community notification with respect to released sexually violent predators.

A sexually violent predator is a person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offense, as determined by the convicting court based on expert advice. The main process is used to free such a person from the provisions of the amendment when it is appropriate to do so. Washington State leads the Nation in coping with this small group of criminals who terrorize our playgrounds, parks, and neighborhoods, preying on the most vulnerable in society. This amendment is modeled in part after the Washington State law.

The amendment is similar to the registration and tracking procedures of Crimes Against Children Subtitle of S. 1607, also known as the Jacob Wetterling Crimes Against Children Registration Act. It applies the same State guidelines and State compliance standards regarding the registration of released sexually violent predators.

The amendment also provides for community notification of released sexual predators and immunity for law enforcement officials in notifying communities of the presence of a sexually violent predator.

This measure targets the small group of violent sexual offenders who are released into society after serving time for rape or child molestation, despite the fact that they are a continued threat. After a determination has been made that the person is a sexually violent predator, law enforcement officials can monitor the person's whereabouts and warn communities where the person may prey. Currently, law enforcement officials often fail to communicate the presence of a sexual predator in their communities, because they either have no way of ensuring his residence or lack the legal protection to do so.

The amendment gives law enforcement officials the tools to do their jobs to protect their communities from the most violent and brutal criminals. Prison officials will share necessary information about released sexually violent predators with local law enforcement who can monitor their movements locally, and the FBI who can monitor their interstate movements.

The Washington State law was inspired by the grisly crimes to repeat sexual offender Earl Shriner who had a 24-year history of violent sexual assaults on young people. Shriner had never been judged incompetent to stand trial, so he was tried and convicted for his criminal acts. Each time he was convicted of a crime, he served his sentence, was released back into society, and proceeded to commit crimes similar to ones for which he had previously been convicted. Law enforcement officials knew he was still a threat but were powerless to protect the community. After a series of other crimes committed by repeat sexual offenders, the State legislature met in special session and passed the Sexually Violent Predators Act which provided for post-incarceration indefinite civil commitment of a small group of sexually violent predators.

The Washington State Supreme Court has recently upheld this statute.

In its original form, this amendment would have provided an analogous procedure, but it is clearly at the cutting edge and troubled a number of Members of this body, including the distinguished chairman. So that portion has been removed from the amendment as it has been presented to the body here.

It does, however, include the registration and the tracking provisions which will enable communities to care for themselves and police to track such people in the way in which they cannot at the present time.

As I have already said, it is a pattern on a section which was a part of this bill with respect to offenders against children.

I greatly appreciate the thoughtful consideration of this proposal and the changes which have been made as a result of the action of the chairman and the staff.

At this point, I believe the proposal is acceptable to both sides, and I ask for confirmation of that proposition by the chairman, at which point I trust we can pass the amendment.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I want to compliment my friend from Washington State on the amendment. As the manager on this side, I am prepared and anxious to accept the amendment. I think it is a good amendment. As I understand, it has been cleared on the Republican side as well.

Mr. GORTON. It has been.

Mr. BIDEN. I yield back the time, and we can vote on the amendment.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

So the amendment (No. 1145) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. What is the pending business?

Mr. GORTON. Before we go on to something else, will the Senator yield a moment?

Mr. BIDEN. I will yield for a question. I do not want to yield the floor.

AMENDMENT NO. 1143

The PRESIDING OFFICER. The pending business is amendment No. 1143.

Mr. BIDEN. Mr. President, I yield for a question to the Senator from Washington.

Mr. GORTON. I thank the Senator from Delaware for his constructive help in connection with the last amendment. I simply wanted to note that this was to take 40 minutes and possibly a vote that was otherwise reserved. He can strike that from his list.

Mr. BIDEN. I thank the Senator for his cooperation. I think the changes he made in his amendment much improve the amendment. I appreciate his being willing to do so.

Mr. President, let me sort of recap here for a moment.

For the last 2 days, we have been telling Senator KOHL, who has a very important amendment relating to children and guns, we had been asking him to withhold that amendment to accommodate the Senate.

I understand my distinguished friend from the State of Virginia has a similar amendment. It is the intention of the manager of the bill to see to it within his ability and power that the Senator from Wisconsin have an opportunity to offer his amendment first.

So I am going to go through some remarks here that I have on the bill and yield to Senator KOHL.

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

Mr. BIDEN. I am happy to yield for a question.

Mr. WARNER. I ask if I could have recognition. If it is not the Senator's desire to have my recognition at this time——

Mr. BIDEN. It is not the Senator's desire to give up the floor at this time. I am happy to answer a question.

Mr. WARNER. Mr. President, I am not trying to end run the Senator from Wisconsin. I said to the manager of the bill that I recognize he has done work in this area, and I had done work independently.

I first read his bill today. I have been in this institution for a while. I am not trying to take another Senator's idea. This is an entirely different approach to a very complicated issue of trying to stop the sale of guns on the streets of America to juveniles.

Mr. BIDEN. I can answer the Senator's question. I am not even attempting to imply the Senator from Virginia is attempting to deal with an issue that was not something he had been working on. I know that. As a matter of fact, the Senator from Virginia has taken a very courageous position in years past on measures relating to guns, being from the State of Virginia, and previous crime bills. I recognize that.

The reason I am going to attempt to keep the floor this evening, Mr. President, is that as the Senator from Virginia knows from managing equally complicated bills like the defense bill, he knows that when you make commitments—he did not make the commitment; the Senator from Delaware made the commitment. So I am not in any way suggesting the Senator from Virginia did or did not do something that is totally within his rights.

As he knows from managing language this complex, this large, and this expensive—and the defense bills he handles are even more expensive than this bill by a long shot—that it is a delicate balance in trying to negotiate agreements by which we will take up amendments, Democrat and Republican, Democrat and Republican. We tried to do this and keep things from sort of getting out of hand.

Toward that end, the Senator from Wisconsin has been on the floor every day with his amendment in hand, every day ready to go throughout the entire day since this bill has been up, and Ipersonally have prevailed upon him not to offer his amendment, because we have been attempting to work it out. We have been attempting to work out whether or not it could be accepted.

This has nothing to do with the Senator from Virginia. Were the Senator from Delaware, at 9:30 at night when the Senator from Wisconsin is not on the floor, to participate in allowing an amendment to come up that, although different, deals with the same subject matter—children and guns—I think it would be appropriate for the Senator from Wisconsin to assume that not the Senator from Virginia but the Senator from Delaware acted in bad faith. So I want to make sure that we work this out.

I have no objection whatsoever, nor would it be my right to object, I might add, to the Senator from Virginia bringing up his amendment or any amendment relative to this area whenever he would like. I would like to see if we could work out an order in which we could bring it up.

What we have done, as the Senator from Virginia probably has not had the opportunity to know, on all these amendments, we have been taking them up based on subject matter. We took up a series of amendments relative to, for example, gangs. We took up a series of amendments relative to police funding, and so on. In order to do that, we have come up with the order that allows us to manage this legislation.

Also, my friend from Virginia knows, although it is not his intention, that if the Senator were to lay down his amendment on guns tonight, it is amendable in the second degree and all amendments are amendable in the second degree. What may very well happen here is in this delicate balance we have been trying to put together how to deal with these gun amendments I am fearful there might be a feeling on the part of some of those who do not share the view of the Senator from Virginia and me, and they would, in fact, second degree this amendment in a way that brings into play gun legislation that I very bluntly am not prepared tonight to deal with.

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

Mr. BIDEN. I yield for a question.

Mr. WARNER. Mr. President, I simply came on the floor at the invitation of the managers and leadership of the Senate for Senators who have amendments to bring them.

I said explicitly to the Senator from Delaware that I am not asking for immediate consideration. I simply want it printed in the RECORD. I simply want to make floor comments and then depart. I am not trying to interfere in the progress on the bill. I thought I came over in a constructive manner.

Mr. BIDEN. I am sure he did.

There may be a way to deal with this. Maybe if the Senator from Virginia is willing—he need not agree to this as it is within his right not to agree with it—if the Senator is willing not to send his amendment to the desk for consideration but merely to make his comment on what his legislation does and asks that it be printed in the RECORD but not be sent to the desk as an amendment, I have no problem yielding to the Senator for that purpose.

Mr. WARNER. Mr. President, that is exactly what I told the managers of the bill.

Mr. BIDEN. Mr. President, I sincerely apologize. I thought the Senator was sending his amendment to the desk for consideration and discussion and then it would be taken down.

I ask unanimous consent that I be permitted to yield the floor to the Senator from Virginia on the grounds that he be able to speak to the amendment that he is going to offer at some future date, that it not be sent to the desk, but his amendment along with his remarks be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WARNER. Mr. President, I thank the distinguished manager of the bill.

Let me make it very clear that I, like many other Members of this body, am seriously concerned about the readily available source of handguns to juveniles in America. We read about it every day.

This is not an original idea. I think many Members of this body are trying to figure out means by which to prevent the transfer for consideration. I am not talking about a father giving a son free a gift of a gun. Let us hope the father understands what he is doing and as such will accept the responsibility.

My father gave me several guns when I was a juvenile. They are among my proudest possessions today. They happen to be a .22 rifle and a shotgun. I understand that. I am not trying to interfere with family life and guns.

What I am directing this amendment to is the street scene. And clearly in this statute or the amendment that I am sending forth, if it becomes law, it is for the transactions where these guns are sold for cash or traded for drugs or a combination thereof.

This may not be the perfect amendment. I yield to anybody to improve it. I am willing to take my name off it and let anybody have the name on it if they want it if they can do a better job.

The Senator from Wisconsin [Mr. KOHL], has an amendment which I discovered long after I had this idea and begun to work on it, but that happens around here all the time. I am perfectly willing that he go first. I can go last. You can put me at any point in time. It makes no difference to me.

But let us hope that the minds of this body are able to devise some type of legislation to get down to these transactions in the street for cash and for drugs, which transactions are leading to the wanton killing and maiming of thousands and thousands of individuals.

So I am going to momentarily send this amendment to the desk and have it printed. Then it is up to the managers when they might wish to bring it up.

First, I define what a handgun is. And this definition is taken out of other Federal law.

The term "handgun" means—

(A) a firearm that has a short stock and is designed to be held and fired by the use of a single hand; and,

(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.

Now, as to the offense: "Section 922 of Title 18, United States Code, is amended"—in other words, there is a title of the Code right in there now that prevents gun dealers, just gun dealers from selling to anyone under the age of 21, but the law is silent about these transactions taking place in the street every day—silent. And the purpose of this amendment is to fill that gap.

The amendment reads:

Section 922 of title 18, United States Code is amended by adding at the end thereof the following new subsection:

(s)(1) It shall be unlawful for any person to sell or otherwise transfer for consideration——

That is the key and operative phrase—

for consideration to a juvenile, or to a person who the transferor knows or has reasonable cause to believe is ajuvenile—

(A) a handgun; or,

(B) ammunition that is suitable for use only in a handgun.

Second section:

For purposes of this subsection, the term "juvenile" means a person who is less than 18 years of age.

Penalties: I will move right onto section (5)(A):

(5)(A) Except as provided in subparagraph (B), whoever knowingly violates subsection (s) of section 922 shall be fined not more than $5,000, imprisoned not more than five years, or both.

(B) Whoever knowingly violates subsection (s) of section 922 knowing or having reasonable cause to know that the juvenile to whom the handgun or ammunition was sold or otherwise transferred for consideration intended to carry, possess, discharge, or otherwise use such handgun or ammunition in the commission of a crime of violence, shall be fined under this title, imprisoned not more than 10 years, or both.".

In other words, if this transaction takes place in such a manner that the seller, the owner of the gun that is transferring it to a juvenile, has reason to believe that the juvenile is going to use it in a crime of violence, wham, 10 years.

Now both of these penalties are left, in terms of the minimum, to the discretion of the judge. I did that intentionally not to make them mandatory, because in my travels through the State of Virginia recently, I sat down with every single Federal judge in the Commonwealth of Virginia in their chambers, in the various locations where the Federal judiciary sits in my State, and discussed at length this problem. This was one of their No. 1 problems.

This is an idea that was imparted to me by those individuals, the jurists on the front line of law enforcement today. This was an idea imparted to me not only by the members of the judiciary, but I met with the prosecutors and chiefs of police. So I am here speaking on their behalf today. This is something that is badly needed in our Federal Code.

This is a simple, direct approach to selling guns to juveniles. It makes it a crime to sell or otherwise transfer—because there are many transactions that these youngsters formulate that none of us have ever experienced before. It is hard to write it into law—for consideration. That means something flows from the juvenile to the seller of the weapon—dollars, drugs, but there is some consideration. And that is a term well defined in the law. The amendment is limited to handgun or handgun ammunition to a person under 18.

I am not in any way trying to invade the province of the father and the son, the uncle and the son, and the family and the son in the country and on the farms. I am not trying to in any way to invade the military. That is not affected by this statute. They do not sell or transfer for consideration.

I joined the Navy when I was 17. We were taught to use the firearms, and later I served in the Marines and trained many marines under the age of 18, 17-year-old marines. This amendment does not affect that.

This amendment goes down into the streets and the alleys all across this country, where these transactions are taking place at the very moment we are in this Chamber tonight. At the very moment we are struggling with this complex crime bill, these transactions are taking place. This bill does not attempt to reach the issue of mere possession of a handgun by a juvenile; a very difficult issue, but important.

Lastly, it directs our attention to the guns on the streets, as I said, and provides two penalties.

So I want to accommodate the managers. I want to accommodate any of my colleagues who can come up with a better idea. I take no great pride of authorship.

As I said, this idea came to me—yes, I have thought about it, as each of you have. But I really began to formulate how we do it in law by sitting with the Federal judiciary, sitting with the prosecutors, sitting with the chiefs of police.

It is, it was a very valuable trip. I would urge other Senators to go and visit with the members of their judiciary in their State. These individuals are struggling from dawn to dusk with their problems associated with crime. In many instances, they are being overwhelmed. So I thank them. I thank the managers of this bill.

Mr. President, I ask unanimous consent to insert in the RECORD tonight for printing a copy of my amendment and a copy of the bill by the Senator from Wisconsin, as it was reported by a Judiciary Subcommittee, so that Senators can compare the two. I find them quite distinct and, therefore, in no way was I trying to invade the workmanship of one of my most respected colleagues and friends in this Chamber.

As I say, this work product is derived from a field trip that I have undertaken over the past 2 or 3 months throughout my State, visiting with members of the judiciary and other law enforcement officials.

So, Mr. President, I ask unanimous consent to have those printed in the RECORD.

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

WARNER AMENDMENT

(Purpose: To amend chapter 44 of title 18, United States Code, to prohibit the sale or transfer for consideration of a handgun or handgun ammunition to a juvenile)

On page 127, after line 15, insert the following new section:

SEC. . PROHIBITION OF THE SALE AND TRANSFER FOR CONSIDERATION OF A HANDGUN OR HANDGUN AMMUNITION TO A JUVENILE.

(a) DEFINITION.—Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following new paragraph:

"(29) The term 'handgun' means—

"(A) a firearm that has a short stock and is designed to be held and fired by the use of a single hand; and

"(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.".

(b) OFFENSE.—Section 922 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(s)(1) It shall be unlawful for any person to sell or otherwise transfer for consideration to a juvenile, or to a person who the transferor knows or has reasonable cause to believe is a juvenile—

"(A) a handgun; or

"(B) ammunition that is suitable for use only in a handgun.

"(2) For purposes of this subsection, the term 'juvenile' means a person who is less than 18 years of age.".

(c) PENALTIES.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking out "paragraph (2) or (3) of"; and

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

"(5)(A) Except as provided in subparagraph (B), whoever knowingly violates subsection(s) of section 922 shall be fined not more than $5,000, imprisoned not more than five years, or both.

"(B) Whoever knowingly violates subsection(s) of section 922 knowing or having reasonable cause to know that the juvenile to whom the handgun or ammunition was sold or otherwise transferred for consideration intended to carry, possess, discharge, or otherwise use such handgun or ammunition in the commission of a crime of violence, shall be fined under this title, imprisoned not more than 10 years, or both.".

KOHL BILL

SECTION 1. SHORT TITLE.

This Act may be cited as the "Youth Handgun Safety Act of 1993".

SEC. 2. FINDINGS AND DECLARATIONS.

The Congress finds and declares that—

(1) Crime, particularly crime involving drugs and guns, is a pervasive, nationwide problem.

(2) Problems with crime at the local level are exacerbated by the interstate movement of drugs, guns, and criminal gangs.

(3) Firearms and ammunition, and handguns in particular, move easily in interstate commerce, as documented in numerous hearings in both the Judiciary Committee of the House of Representatives and Judiciary Committee of the Senate.

(4) In fact, even before the sale of a handgun, the gun, its component parts, ammunition, and the raw materials from which they are made have considerably moved in interstate commerce.

(5) While criminals freely move from State to State, ordinary citizens may fear to travel to or through certain parts of the country due to the concern that violent crime is not under control, and foreigners may decline to travel in the United States for the same reason.

(6) Just as the hardened drug kingpins begin their life in the illicit drug culture by exposure to drugs at a young age, violent criminals often start their criminal careers on streets where the ready availability of guns to young people results in the acceptability of their random use.

(7) Violent crime and the use of illicit drugs go hand-in-hand, and attempts to control one without controlling the other may be fruitless.

(8) Individual States and localities find it impossible to handle the problem by themselves; even States and localities that have made a strong effort to prevent, detect, and punish crime find their effort unavailing due in part to the failure or inability of other States and localities to take strong measures.

(9) Inasmuch as an illicit drug activity and related violent crime overflow State lines and national boundaries, the Congress has power, under the interstate commerce clause and other provisions of the Constitution, to enact measures to combat these problems.

(10) The Congress finds that it is necessary and appropriate to assist the States in controlling crime by stopping the commerce in handguns with juveniles nationwide, and allowing the possession of handguns by juveniles only when handguns are possessed and used for legitimate purposes under appropriate conditions.

SEC. 3. PROHIBITION OF THE POSSESSION OF A HANDGUN OR AMMUNITION BY, OR THE PRIVATE TRANSFER OF A HANDGUN OR AMMUNITION TO, A JUVENILE.

(a) DEFINITION.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(29) The term 'handgun' means—

"(A) a firearm that has a short stock and is designed to be held and fired by the use of a single hand; and

"(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.".

(b) OFFENSE.—Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(s)(1) It shall be unlawful for any person to sell, deliver, or transfer to a juvenile, or to anyone who the person has reason to believe is a juvenile—

"(A) a handgun; or

"(B) ammunition that is suitable for use only in a handgun.

"(2) It shall be unlawful for any person who is a juvenile to possess—

"(A) a handgun; or

"(B) ammunition that is suitable for use only in a handgun.

"(3) This subsection does not apply to—

"(A) a temporary transfer of a handgun or ammunition to a juvenile or to the possession or use of a handgun or ammunition by a juvenile if the handgun and ammunition are possessed and used by the juvenile—

"(i) for target practice, hunting, or a course of instruction in the safe and lawful use of a handgun;

"(ii) under the personal supervision and in the presence of an adult who is not prohibited by Federal, State, or local law from possessing a firearm;

"(iii) with the permission of the juvenile's parent or legal guardian; and

"(iv) in accordance with State and local law;

"(B) a juvenile who is a member of the Armed Forces of the United States or the National Guard who possesses or is armed with a handgun in the line of duty; or

"(C) a transfer by inheritance of title (but not possession) of a handgun or ammunition to a juvenile.

"(4) For purposes of this subsection, the term 'juvenile' means a person who is less than 18 years of age.".

(c) PENALTY.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "paragraph (2) or (3) of"; and

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

"(5) A person who knowingly violates section 922(s) shall be fined under this title, imprisoned not more than 1 year, or both.".

(d) TECHNICAL AMENDMENT OF JUVENILE DELINQUENCY PROVISIONS.—

(1) SECTION 5031.—Section 5031 of title 18, United States Code, is amended by inserting "or a violation by such a person of section 922(s)" before the period at the end.

(2) SECTION 5032.—Section 5032 of title 18, United States Code, is amended—

(A) in the first undesignated paragraph by inserting "or (s)" after "922(p)"; and

(B) in the fourth undesignated paragraph by inserting "or section 922(s) of this title," before "criminal prosecution on the basis".

(e) MODEL LAW.—The Attorney General, acting through the Director of the National Institute of Justice, shall—

(1) evaluate existing and proposed juvenile handgun legislation in each State;

(2) develop model juvenile handgun legislation that is constitutional and enforceable;

(3) prepare and disseminate to State authorities the findings made as the result of the evaluation; and

(4) report to Congress by December 31, 1994, findings and recommendations concerning the need or appropriateness of further action by the Federal Government.

Mr. WARNER. Mr. President, I yield the floor. I thank the managers.

Mr. BIDEN. Mr. President, let me compliment my friend from Virginia in speaking to a problem that I wish, quite frankly, the entire body was more sensitive to.

Mr. WARNER. Mr. President, I was not able to give the distinguished Senator my attention.

Mr. BIDEN. I said let me thank my friend from Virginia for speaking to a subject that, quite frankly, I wish the entire body was more sensitive to. I thank him for being willing, not just on this occasion but on past occasions relative to working on crime issues, to stand up and take a risk.

It has never been popular in any of our States to be perceived as being for gun control. But when it was unpopular, before there was a significant, overwhelming support from the public for efforts to deal rationally with the proliferation of guns and access to guns, the Senator from Virginia was a stand-up fellow and he stood and spoke to it.

So I compliment him on the way he has gone about this, and on his position on this issue.

Mr. WARNER. If I might just interject, I thank my distinguished colleague from Delaware. Indeed I worked with him for many years, and I commend him and commend his distinguished ranking member, Mr. HATCH, for the work they have done.

I will be guided by the wishes of the managers and others as to when and how this amendment that I have can be brought up, how it can be approved. I shall be available tomorrow at their request.

FAMILY BREAKDOWN

Mr. DOLE. Mr. President, by adopting the Republican truth-in-sentencing proposal and by devoting $22 billion in resources to build more prison space and put more police on the streets, the Senate has taken a big step forward in the war against crime.

In the final analysis, however, the best deterrent to crime is not police, or a police cell, but something called conscience—that little inner voice that says: "No, you better not do that. It's wrong." For generations, people have developed conscience through the church, the schools, and most importantly, through families and the set of values that families have traditionally transmitted to their children.

Unfortunately, the American family today is in tatters. More than two-thirds of all black children, and nearly 25 percent of all white children, are born to unwed mothers. In some inner-city communities, the illegitimacy rate is a staggering 80 percent, as thousands of children are born each year into a world without fathers and to mothers who are simply unprepared for the responsibilities of motherhood.

The corrosive impact of family breakdown on inner-city life cannot be underestimated. Not only is there a clear link between family breakdown and poverty, as my Senate colleague DANIEL PATRICK MOYNIHAN pointed out some 25 years ago, there is also an indisputable link between family breakdown and crime. Not surprisingly, 70 percent of the juveniles in State reformatories today come from homes without fathers.

An important article written by Charles Murray and appearing in the Wall Street Journal last week puts this all in perspective. I commend the article to my colleagues.

Mr. President, I ask unanimous consent that the Wall Street Journal article be inserted in the RECORD immediately after my remarks.

There being no objection, the order to be printed in the RECORD, as follows:

[From the Wall Street Journal, Oct. 29, 1993]

THE COMING WHITE UNDERCLASS

(By Charles Murray)

Every once in a while the sky really is falling, and this seems to be the case with the latest national figures on illegitimacy. The unadorned statistic is that, in 1991, 1.2 million children were born to unmarried mothers, with a high of 30% of all live births. How high is 30%? About four percentage points higher than the black illegitimacy rate in the early 1960s that motivated Daniel Patrick Moynihan to write his famous memorandum on the breakdown of the black family.

The 1991 story for blacks is that illegitimacy has now reached 68% of births to black women. In inner cities, the figures is typically in excess of 80%. Many of us have heard these numbers so often that we are inured. It is time to think about them as if we were back in the mid-1960s with the young Moynihan and asked to predict what would happen if the black illegitimacy rate were 68%.

Impossible, we would have said. But if the proportion of fatherless boys in a given community were to reach such levels, surely the culture must be "Lord of the Flies" writ large, the values of unsocialized male adolescents made norms—physical violence, immediate gratification and predatory sex. That is the culture now taking over the black inner city.

But the black story, however dismaying, is old news. The new trend that threatens the U.S. is white illegitimacy. Matters have not yet quote gotten out of hand, but they are on the brink. If we want to act, now is the time.

In 1991, 707,502 babies were born to single white women, representing 22% of white births. The elite wisdom holds that this phenomenon cuts across social classes, as if the increase in Murphy Browns were pushing the trendline. Thus, a few months ago, a Census Bureau study of fertility among all American women got headlines for a few days because it showed that births to single women with college degrees doubled in the last decade to 6% from 3%. This is an interesting trend, but of minor social importance. The real news of that study is that the proportion of single mothers with less than a high school education jumped to 48% from 35% in a single decade.

CLASS DIFFERENCES

These numbers are dominated by whites. Breaking down the numbers by race (using data not available in the published version), women with college degrees contribute only 4% of white illegitimate babies, while women with a high school education or less contribute 82%. Women with family incomes of $75,000 or more contribute 1% of white illegitimate babies, while women with family incomes under $20,000 contribute 69%.

The National Longitudinal Study of Youth, a Labor Department study that has tracked more than 10,000 youths since 1979, shows an even more dramatic picture. For white women below the poverty line in the year prior to giving birth, 44% of births have been illegitimate, compared with only 6% for women above the poverty line. White illegitimacy is overwhelmingly a lower-class phenomenon.

This brings us to the emergence of a white underclass. In raw numbers, European-American whites are the ethnic group with the most people in poverty, most illegitimate children, most women on welfare, most unemployed men, and most arrests for serious crimes. And yet whites have not had an "underclass" as such, because the whites who might qualify have been scattered among the working class. Instead, whites have had "white trash" concentrated in a few streets on the outskirts of town, sometimes a Skid Row of unattached white men in the large cities. But these scatterings have seldom been large enough to make up a neighborhood. An underclass needs a critical mass, and white America has not had one.

But now the overall white illegitimacy rate is 22%. The figure in low-income, working-class communities may be twice that. How much illegitimacy can a community tolerate? Nobody knows, but the historical fact is that the trendlines on black crime, dropout from the labor force, and illegitimacy all shifted sharply upward as the overall black illegitimacy rate passed 25%.

The causal connection is murky—I blame the revolution in social policy during that period, while others blame the sexual revolution, broad shifts in cultural norms, or structural changes in the economy. But the white illegitimacy rate is approaching that same problematic 25% region at a time when social policy is more comprehensively wrong-headed than it was in the mid-1960s, and the cultural and sexual norms are still more degraded.

The white underclass will begin to show its face in isolated ways. Look for certain schools in white neighborhoods to get a reputation as being unteachable, with large numbers of disruptive students and indifferent parents. Talk to the police; listen for stories about white neighborhoods where the incidence of domestic disputes and casual violence has been shooting up. Look for white neighborhoods with high concentrations of drug activity and large numbers of men who have dropped out of the labor force. Some readers will recall reading the occasional news story about such places already.

As the spatial concentration of illegitimacy reaches critical mass, we should expect the deterioration to be as fast among low-income whites in the 1990s as it was among low-income blacks in the 1960s. My proposition is that illegitimacy is the single most important social problem of our time—more important than crime, drugs, poverty, illiteracy, welfare or homelessness because it drives everything else. Doing something about it is not just one more item on the American policy agenda, but should be at the top. Here is what to do:

In the calculus of illegitimacy, the constants are that boys like to sleep with girls and that girls think babies are endearing. Human societies have historically channeled these elemental forces of human behavior via thick walls of rewards and penalties that constrained the overwhelming majority of births to take place within marriage. The past 30 years have seen those walls cave in. It is time to rebuild them.

The ethical underpinning for the policies I am about to describe is this: Bringing a child into the world is the most important thing that most human beings ever do. Bringing a child into the world when one is not emotionally or financially prepared to be a parent is wrong. The child deserves society's support. The parent does not.

The social justification is this: A society with broad legal freedoms depends crucially on strong nongovernmental institutions to temper and restrain behavior. Of these, marriage is paramount. Either we reverse the current trends in illegitimacy—especially white illegitimacy—or America must, willy-nilly, become an unrecognizably authoritarian, socially segregated, centralized state.

To restore the awards and penalties of marriage does not require social engineering. Rather, it requires that the state stop interfering with the natural forces that have done the job quite effectively for millennia. Some of the changes I will describe can occur at the federal level; others would involve state laws. For now, the important thing is to agree on what should be done.

I begin with the penalties, of which the most obvious are economic. Throughout human history, a single woman with a small child has not been a viable economic unit. Not being a viable economic unit, neither have the single woman and child been a legitimate social unit. In small numbers, they must be a net drain on the community's resources. In large numbers, they must destroy the community's capacity to sustain itself. Mirabile dictu, communities everywhere have augmented the economic penalties of single parenthood with severe social stigma.

Restoring economic penalties translates into the first and central policy prescription:

to end all economic support for single mothers. The AFDC (Aid to Families With Dependent Children) payment goes to zero. Single mothers are not eligible for subsidized housing or for food stamps. An assortment of other subsidies and in-kind benefits disappear. Since universal medical coverage appears to be an idea whose time has come, I will stipulate that all children have medical coverage. But with that exception, the signal is loud and unmistakable: From society's perspective, to have a baby that you cannot care for yourself is profoundly irresponsible, and the government will no longer subsidize it.

How does a poor young mother survive without government support? The same way she has since time immemorial. If she wants to keep a child, she must enlist support from her parents, boyfriend, siblings, neighbors, church or philanthropies. She must get support from somewhere, anywhere, other than the government. The objectives are threefold.

First, enlisting the support of others raises the probability that other mature adults are going to be involved with the upbringing of the child, and this is a great good in itself.

Second, the need to find support forces a self-selection process. One of the most shortsighted excuses made for current behavior is that an adolescent who is utterly unprepared to be a mother "needs someone to love." Childish yearning isn't a good enough selection device. We need to raise the probability that a young single woman who keeps her child is doing so volitionally and thoughtfully. Forcing her to find a way of supporting the child does this. It will lead many young women who shouldn't be mothers to place their babies for adoption. This is good. It will lead others, watching what happens to their sisters, to take steps not to get pregnant. This is also good. Many others will get abortions. Whether this is good depends on what one thinks of abortion.

Third, stigma will regenerate. The pressure on relatives and communities to pay for the folly of their children will make an illegitimate birth the socially horrific act it used to be, and getting a girl pregnant something boys do at the risk of facing a shotgun. Stigma and shotgun marriages may or may not be good for those on the receiving end, but their deterrent effect on others is wonderful—and indispensable.

What about women who can find no support but keep the baby anyway? There are laws already on the books about the right of the state to take a child from a neglectful parent. We have some 360,000 children in foster care because of them. Those laws would still apply. Society's main response, however, should be to make it as easy as possible for those mothers to place their children for adoption at infancy. To that end, state governments must strip adoption of the nonsense that has encumbered it in recent decades.

The first step is to make adoption easy for any married couple who can show reasonable evidence of having the resources and stability to raise a child. Lift all restrictions on interracial adoption. Ease age limitations for adoptive parents.

The second step is to restore the traditional legal principle that placing a child for adoption means irrevocably relinquishing all legal rights to the child. The adoptive parents are parents without qualification. Records are sealed until the child reaches adulthood, at which time they may be unsealed only with the consent of biological child and parent.

Given these straightforward changes—going back to the old way, which worked—there is reason to believe that some extremely large proportion of infants given up by their mothers will be adopted into good homes. This is true not just for flawless blue-eyed blond infants but for babies of all colors and conditions. The demand for infants to adopt is huge.

Some small proportion of infants and larger proportion of older children will not be adopted. For them, the government should spend lavishly on orphanages. I am not recommending Dickensian barracks. In 1993, we know a lot about how to provide a warm, nurturing environment for children, and getting rid of the welfare system frees up lots of money to do it. Those who find the word "orphanages" objectionable may think of them as 24-hour-a-day preschools. Those who prattle about the importance of keeping children with their biological mothers may wish to spend some time in a patrol car or with a social worker seeing what the reality of life with welfare-dependent biological mothers can be like.

Finally, there is the matter of restoring the rewards of marriage. Here, I am pessimistic about how much government can do and optimistic about how little it needs to do. The rewards of raising children within marriage are real and deep. The main task is to shepherd children through adolescence so that they can reach adulthood—when they are likely to recognize the value of those rewards—free to take on marriage and family. The main purpose of the penalties for single parenthood is to make that task easier.

One of the few concrete things that the government can do to increase the rewards of marriage is to make the tax code favor marriage and children. Those of us who are nervous about using the tax code for social purposes can advocate making the tax code at least neutral.

A more abstract but ultimately crucial step in raising the rewards of marriage is to make marriage once again the sole legal institution through which parental rights and responsibilities are defined and exercised.

Little boys should grow up knowing from their earliest memories that if they want to have any rights whatsoever regarding a child that they sire—more vividly, if they want to grow up to be a daddy—they must marry. Little girls should grow up knowing from their earliest memories that if they want to have any legal claims whatsoever on the father of their children, they must marry. A marriage certificate should establish that a man and a woman have entered into a unique legal relationship. The changes in recent years that have blurred the distinctiveness of marriage are subtly but importantly destructive.

Together, these measures add up to a set of signals, some with immediate and tangible consequences, others with long-term consequences, still others symbolic. They should be supplemented by others based on a re-examination of divorce law and its consequences.

VIRTUE AND TEMPERANCE

That these policy changes seem drastic and unrealistic is a peculiarity of our age, not of the policies themselves. With embellishments, I have endorsed the policies that were the uncontroversial law of the land as recently as John Kennedy's presidency. Then, America's elites accepted as a matter of course that a free society such as America's can sustain itself only through virtue and temperance depend centrally on the socialization of each new generation, and that the socialization of each generation depends on the matrix of care and resources fostered by marriage.

Three decades after that consensus disappeared, we face an emerging crisis. The long, steep climb in black illegitimacy has been calamitous for black communities and painful for the nation. The reforms I have described will work for blacks as for whites, and have been needed for years. But the brutal truth is that American society as a whole could survive when illegitimacy became epidemic within a comparatively small ethnic minority. It cannot survive the same epidemic among whites.

AMENDMENT NO. 1131

Mr. KENNEDY. Mr. President, I am disappointed that the Senator from Utah would offer an amendment to revise the mandatory minimum safety valve that we negotiated with Senators SIMPSON and THURMOND and other Members of the Senate. Those negotiations resulted in the introduction of a free-standing bill, S. 1596, that had been included in the crime bill.

Now the Senator from Utah proposes a much narrower version of the safety valve. In fact, this version is so narrow that it is effectively meaningless. It is called mandatory minimum reform, but it will have no practical effect on the day-to-day injustices that are created by mandatory minimums.

I will first describe the basis for the underlying safety valve provision, and then explain why that version is preferable to the Hatch version.

Section 2404 of the crime bill creates a narrow safety valve in the mandatory minimum sentencing laws. As I have noted, this was a bipartisan effort to remedy some of the worst injustices created by mandatory minimum sentencing statutes.

It also reflects a growing recognition that mandatory minimum sentences are unnecessary and unhelpful now that we have a fully functioning sentencing guidelines system in the Federal courts.

This provision would permit a small number of low-level, nonviolent defendants who would otherwise be subject to mandatory minimum laws to be sentenced under the guideline system instead. Basically, the defendants exempted from mandatory sentencing would be low-level drug trafficking defendants with very minimal criminal records who did not possess a firearm or cause death during the commission of the offense, and who did not have an aggravating role in the offense as defined by the guidelines.

The imposition of lengthy mandatory prison terms on such relatively minor defendants has led to an outcry of disapproval from judges, prosecutors, defense attorneys and other knowledgeable observers. These cases are clogging up our courts and our prisons. It is expensive, counterproductive and unjust to keep these small-time, non-violent defendants in prison for 10 or 20 years, especially when some dangerous, career criminals are serving less time.

Mandatory minimum sentences cause these irrational results, and enactment of S. 1596 would be a sensible initial response to the obvious flaws in current law. My personal preference would have been for more comprehensive reform of mandatory sentencing laws, but I have cosponsored this bill because I recognize that this may be as far as the current Congress is prepared to go. If this law is enacted, I hope my colleagues will join me in evaluating its effect, and reviewing the Sentencing Commission's recommendations for further action.

My opposition to mandatory sentencing is not based on the length or severity of current sentences. Rather, I oppose mandatory sentencing laws because they are counterproductive in the fight against crime and are flatly inconsistent with the sentencing guideline system that we enacted by passing the Sentencing Reform Act of 1984.

That act, the product of more than a decade of congressional debate, created the U.S. Sentencing Commission, established the guidelines system, abolished parole, and authorized appellate review of sentences. The Sentencing Reform Act provides the framework for a coherent Federal sentencing policy.

Senator THURMOND and I worked together for many years to persuade our colleagues of the merits of sentencing reform. Our legislative strategy and our goals were bipartisan. We sought to eliminate unwarranted disparity, promote honesty in sentencing, and rationalize this stage of the Federal criminal justice system.

But mandatory minimum sentencing statutes have hampered the guideline system and are becoming a increasingly serious obstacle to its success.

Congress has persisted in enacting these statutes in recent years, despite the fact that mandatory minimums interfere with the commission's effort to devise a rational sentencing system. Both mandatory penalties and guidelines limit judicial sentencing discretion, but the guidelines offer a more sophisticated opportunity to channel judicial discretion.

Mandatory minimums inevitably lead to sentencing disparity because defendants with different degrees of guilt and different criminal records receive the same sentence.

The guideline system permits the court to consider the aggravating and mitigating circumstances relevant to each offense and each offender, but mandatory minimums override such individualized sentencing.

Some advocates of mandatory sentencing believe that coerced uniformity is appropriate. But the mandatory statutes do not produce uniformity; they just transfer discretion from judges to prosecutors, who decide whether defendants will be charged with an offense carrying a mandatory penalty, and whether to insist on a plea to that count of the indictment. A guideline system makes judges accountable for the discretion they exercise; mandatory sentencing laws impose no similar check on prosecutors.

The Attorney General, the Sentencing Commission and the Judicial Conference have all criticized mandatory penalties. At a recent conference, Chief Justice Rehnquist noted that mandatory minimums "frustrate the careful calibration of sentences, from one end of the spectrum to the other, that the guidelines were intended to accomplish."

So our safety valve was a small but important step in the effort to recapture the goals of sentencing reform. We must begin to let the Sentencing Commission do the job we delegated to it.

But the Hatch approach—especially as it has now been modified—is far too small a step. Let me describe some of the differences between our approach and the Hatch approach:

The Hatch safety valve applies to defendants convicted of drug laws, but doesn't apply to defendants convicted of attempt to violate the drug laws. Certainly a defendant who merely attempted to violate the law deserves as much consideration as a defendant who actually violated the law.

The Hatch safety valve doesn't apply to defendants convicted of conspiracy to violate the drug laws. Serious injustices often occur in these conspiracy cases, because a minor player in a conspiracy is criminally responsible for the entire amount of drugs involved in the conspiracy. So low-level conspirators get 10- or 20-year sentences, they clog up the courts and the prisons, and that'sprecisely what's wrong with mandatories.

Our version applies to individuals who have, at most, very minor criminal histories under the guidelines. The Hatch version is much narrower—it excludes anyone who has ever been sentenced to a period of incarceration, or who has a juvenile adjudication of criminal conduct. So under the Hatch version, a prior shoplifting conviction that resulted in a 2-day jail sentence will mean the difference between whether a defendant is subject to a 20-year mandatory minimum prison sentence.

Similarly, a 55-year-old defendant with no criminal history, but who was adjudicated a delinquent for a fist fight 40 years ago would be ineligible for the safety valve. These are just silly distinctions.

The Hatch amendment would make a defendant ineligible for the safety valve if the offense involved a death, whether or not the defendant had anything to do with, or even knew about the death.

Our safety valve would not apply to anyone who caused, threatened to cause, or credibly threatened to cause serious bodily injury or death. But the Hatch amendment would exclude anyone who threatens physical injury—a slap, a punch, or a threat to slap or punch someone would spell the difference between a mandatory minimum or not.

These are just some of the ways in which the Hatch amendment is unreasonably and unnecessarily narrower than the version that is in the bill now.

I also oppose both the Hatch second degree amendment and the underlying Gramm amendment because they propose new mandatory minimums and a new death penalty authorization. But I am especially pained that the safety valve proposal—which was so carefully negotiated—has now been effectively emasculated.

I hope that we can work in conference to improve the mandatory minimum safety valve that will be included in the Senate-passed bill.

PROGRAM

Mr. BIDEN. Mr. President, the following votes have been ordered for tomorrow after we dispose of the cloture vote.

One is the Dole amendment, relative to gangs; the Lieberman amendment relating to carjacking; and pending is a Lieberman amendment on drug enforcement areas for tomorrow, on which we hope we can get a time agreement and have a vote ordered.

The following Senators have indicated they would like to speak tomorrow on the following amendments:

The distinguished Senator from Wisconsin, Senator KOHL, on an amendment on children and guns.

Senator D'AMATO and the death penalty for drug kingpins. He has agreed to a 20-minute time limitation. We do not have UC for these yet, but he has agreed to a 20-minute time limitation.

A D'Amato amendment concerning mandatory minimum sentences on which it has agreed to have a 30-minute time limitation.

A Kerry of Massachusetts amendment relative to increased funds for police court. He has agreed to a 1-hour time agreement.

The Senator from Delaware, Mr. ROTH, on noncooperation of local governments with the Immigration and Naturalization Service. He has 30 minutes he has agreed to on that amendment.

A Chafee amendment on stalking, which I believe he is willing to agree to a 40-minute time agreement, equally divided.

In addition, pending and laid aside at the moment is the Gramm of Texas amendment, as amended by the Hatch amendment.

We hope that Senators, the Senators I named, will be here tomorrow to offer their amendments beginning at 10 a.m.

At that time, I hope to turn this announcement into a unanimous consent

request, to enter into an agreement for considering these amendments, and to stack votes on them to follow those votes already ordered. We will also seek to reach agreements on all other amendments.

I have also been informed the Senators from Arizona and California and Ohio—METZENBAUM, FEINSTEIN, and DECONCINI—wish to move early, relatively early, tomorrow, on their amendment relative to assault weapons.

So we should have a full day tomorrow. If we can continue the pace and progress we have made today, I hope the majority leader would consider keeping us in very late tomorrow night until we finish this legislation.

Mr. President, there is no more business relative to the crime bill, the Biden crime bill, that I wish, or anyone wishes to bring before the Senate.

MORNING BUSINESS

Mr. BIDEN. Mr. President, I ask unanimous consent 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.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar 472. Jeffrey E. Garten, to be Under Secretary of Commerce for International Trade;

Calendar 482. Jonathan Z. Cannon, to be an assistant Administrator of the Environmental Protection Agency;

Calendar 483. Mary Dolores Nichols, to be an Assistant Administrator of the Environmental Protection Agency;

Calendar 484. Joseph Swerdzewski, to be General Counsel of the Federal Labor Relations Authority;

Calendar 490. Eugene A. Brickhouse, to be an Assistant Secretary of Veterans Affairs (Human Resources and Administration);

Calendar 491. Kathy Elena Jurado, to be an Assistant Secretary of Veterans Affairs (Public and Intergovernmental Affairs);

Calendar 493. Joseph A. Dear, to be an Assistant Secretary of Labor;

Calendar 494. Ernest W. DuBester, to be a member of the National Medicine Board;

Calendar 495. Diane B. Frankel, to be Director of the Institute of Museum Services;

Calendar 497. Lt. Gen. Gary H. Mears, to be lieutenant general on the retired list;

Calendar 498. Gen. Jimmy D. Ross, to be general on the retired list;

Calendar 499. Maj. Gen. Johnnie E. Wilson, for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility;

Calendar 500. The officers named for promotion in the Regular Army of the United States;

Calendar 501. The officers named to be major general and brigadier general;

Calendar 502. The captains named of the Reserve of the U.S. Navy for permanent promotion of rear admiral (lower half);

Calendar 503. The rear admirals (lower half) named of the Reserve of the U.S. Navy for permanent promotion to the grade of rear admiral;

Calendar 504. Vice Adm. Jerry O. Tuttle, to be vice admiral;

Calendar 505. Vice Adm. William A. Owens, to be admiral;

Calendar 506. Vice Adm. Thomas J. Lopez, to be vice admiral; and

All nominations placed on the Secretary's Desk in the Air Force, Army, Marine Corps, and Navy.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that upon confirmation, the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF COMMERCE

Jeffrey E. Garten, of New York, to be Under Secretary of Commerce for International Trade.

ENVIRONMENTAL PROTECTION AGENCY

Jonathan Z. Cannon, of Virginia, to be an Assistant Administrator of the Environmental Protection Agency.

Mary Dolores Nichols, of California, to be an Assistant Administrator of the Environmental Protection Agency.

FEDERAL LABOR RELATIONS AUTHORITY

Joseph Swerdzewski, of Colorado, to be General Counsel of the Federal Labor Relations Authority for a term of 5 years.

DEPARTMENT OF VETERANS AFFAIRS

Eugene A. Brickhouse, of Virginia, to be an Assistant Secretary of Veterans Affairs (Human Resources and Administration).

Kathy Elena Jurado, of Florida, to be an Assistant Secretary of Veterans Affairs (Public and Intergovernmental Affairs).

DEPARTMENT OF LABOR

Joseph A. Dear, of Washington, to be an Assistant Secretary of Labor.

NATIONAL MEDIATION BOARD

Ernest W. DuBester, of New Jersey, to be a member of the National Mediation Board for a term expiring July 1, 1995.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Diane B. Frankel, of California, to be Director of the Institute of Museum Services.

[New Reports]

DEPARTMENT OF DEFENSE

IN THE AIR FORCE

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Gary H. Mears, [redacted] U.S. Air Force.

IN THE ARMY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be general

Gen. Jimmy D. Ross, [redacted] U.S. Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Johnnie E. Wilson, [redacted] U.S. Army.

The following-named officers for promotion in the Regular Army of the United States to the grade indicated, under the provisions of title 10, United States Code, sections 611(a) and 624:

To be permanent brigadier general

Col. Edwin P. Smith [redacted]
Col. Neil N. Snyder, II [redacted]
Col. Mark R. Hamilton [redacted]
Col. Emmitt E. Gibson [redacted]
Col. Robert D. Shadley [redacted]
Col. Charles R. Viale [redacted]
Col. George F. Close, Jr [redacted]
Col. Dale R. Nelson [redacted]
Col. Joseph E. Oden [redacted]
Col. Michael W. Ackerman [redacted]
Col. Boyd E. King, Jr [redacted]
Col. John M. Le Moyne [redacted]
Col. Michael L. Dodson [redacted]
Col. John J. Rynesk [redacted]
Col. Roy E. Beauchamp [redacted]
Col. Richard A. Black [redacted]
Col. John B. Sylveste [redacted]
Col. James P. O'Nea [redacted]
Col. Thomas W. Garret [redacted]
Col. John D. Thomas, Jr [redacted]
Col. James E. Shane, Jr [redacted]
Col. John G. Meyer, Jr [redacted]
Col. Joseph M. Cosumano, Jr [redacted]
Col. Robert B. Flowers [redacted]
Col. Robert R. Ivany [redacted]
Col. Michael T. Byrnes [redacted]
Col. David S. Weisman [redacted]
Col. Ralph G. Wooten [redacted]
Col. Julian H. Burns, Jr [redacted]
Col. Robert T. Clark [redacted]
Col. Christopher C. Shoemaker [redacted]
Col. Kevin P. Byrnes [redacted]
Col. John M. McDuffie [redacted]
Col. Gregory A. Rountree [redacted]
Col. Larry J. Lus [redacted]
Col. Peter C. Franklin [redacted]
Col. David L. Grange [redacted]
Col. Kenneth R. Bowra [redacted]

The following U.S. Army Reserve officers for promotion to the grades indicated in the Reserve of the Army of the United States, under the provisions of sections 593(a), 3371 and 3384, title 10, United States Code:

To be major general

Brig. Gen. Donald F. Campbell [redacted]
Brig. Gen. Peter W. Clegg, [redacted]
Brig. Gen. Lindsay M. Freeman, [redacted]
Brig. Gen. Leonard L. Hoch, [redacted]
Brig. Gen. Thomas P. Jones, [redacted]
Brig. Gen. Howard T. Mooney, [redacted]
Brig. Gen. Thomas J. Plewes [redacted]
Brig. Gen. Richard F. Reeder, [redacted]
Brig. Gen. Richard E. Storat [redacted]

Brig. Gen. Francis D. Terrell, [redacted]
Brig. Gen. John M. Vest, [redacted]
Brig. Gen. Robert H. G. Waudby [redacted]

To be brigadier general

Col. Michael E. Dunlavey, [redacted]
Col. James L. Bauerle, [redacted]
Col. Melvin R. Johnson, [redacted]
Col. Bruce B. Bingham, [redacted]
Col. Michael R. Mayo, [redacted]
Col. Robert J. Winzinger, [redacted]
Col. John G. Kulhavi, [redacted]
Col. Rodney D. Ruddock, [redacted]
Col. Robert L. Lennon, [redacted]
Col. John J. Green, Jr., [redacted]
Col. James C. Larson, [redacted]
Col. Clifford L. Massengale, [redacted]
Col. Robert A. Lee, [redacted]
Col. Norman B. Burdett, [redacted]

IN THE NAVY

The following-named captains of the Reserve of the U.S. Navy for permanent promotion to the grade of rear admiral (lower half) in the line and staff corps, as indicated, pursuant to the provision of title 10, United States Code, section 5912:

UNRESTRICTED LINE OFFICER

To be rear admiral (lower half)

Capt. James Wayne Eastwood [redacted] 1115, U.S. Naval Reserve.
Capt. Timothy O'Neil Fanning, Jr. [redacted] U.S. Naval Reserve.
Capt. John Edwin Kerr, [redacted] U.S. Naval Reserve.
Capt. John Benjamin Totushek, [redacted] 1315, U.S. Naval Reserve.

SPECIAL DUTY OFFICER (CRYPTOLOGY)

To be rear admiral (lower half)

Capt. Robert Hulburt Weidman, Jr., [redacted] U.S. Naval Reserve.

MEDICAL CORPS OFFICER

To be rear admiral (lower half)

Capt. Macea Eugene Fussell, [redacted] 2105, U.S. Naval Reserve.

SUPPLY CORPS OFFICER

To be rear admiral (lower half)

Capt. Brian Nelson McCarthy, [redacted] 3105, U.S. Naval Reserve.

CHAPLAIN CORPS OFFICER

To be rear admiral (lower half)

Capt. William Ashley Will, Jr., [redacted] 4105, U.S. Naval Reserve.

The following-named rear admirals (lower half) of the Reserve of the U.S. Navy for permanent promotion to the grade of rear admiral in the line, as indicated, pursuant to the provision of title 10, United States Code, section 5912:

UNRESTRICTED LINE OFFICER

To be rear admiral

Rear Adm. (lh) Grant Thomas Hollett, Jr., [redacted] 115, U.S. Naval Reserve.
Rear Adm. (lh) Tim McCall Jenkins [redacted] U.S. Naval Reserve.
Rear Adm. (lh) John Jacob Mumaw [redacted] U.S. Naval Reserve.

UNRESTRICTED LINE OFFICER (TRAINING AND ADMINISTRATION OF RESERVE)

TO BE REAR ADMIRAL

Rear Adm. (lh) James Duane Olson II [redacted] U.S. Naval Reserve.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be vice admiral

Vice Adm. Jerry O. Tuttle, U.S. Navy, [redacted]

The following-named officer for appointment to the grade of admiral while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be admiral

Vice Adm. William A. Owens, [redacted] U.S. Navy.

The following-named officer for reappointment to the grade of vice admiral while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. Thomas J. Lopez, [redacted] U.S. Navy.

Air Force nominations beginning Richard A. Aceto, and ending Raymond D. Wilkins, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 14, 1993.

Air Force nomination of Robert G. Worthington, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of October 19, 1993.

Air Force nominations beginning Samar K. Bhowmick, and ending Ernest G. Weeks, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 19, 1993.

Air Force nominations beginning Kenneth F. Abel, and ending Sheila J. Zrimm, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 19, 1993.

Army nominations beginning Robert E. Abodeely, and ending Julia B. Williams, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 4, 1993.

Army nominations beginning Thomas N. Bordner, and ending Lynnette D. Kennison, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 19, 1993.

Army nominations beginning Patricia A. Affe, and ending Alan H. Brightman, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 19, 1993.

Marine Corps nominations beginning Jeffrey A. Baumert, and ending Jeffrey A. Ripa, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 19, 1993.

Marine Corps nominations beginning Stephen S. Adams, and ending Craig W. Wood, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 19, 1993.

Marine Corps nominations beginning Joseph A. Alexander, Jr., and ending Wade Yoffee, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 19, 1993.

Marine Corps nominations beginning James C. Andrus, and ending Floyd H. Winn, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 19, 1993.

Marine Corps nominations Timothy C. Abe, and ending Mark G. Zimmerman, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 19, 1993.

Navy nominations beginning Jon Christian Abeles, and ending John Stewart Daughenbaugh, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 19, 1993.

Navy nominations beginning Ronald David Abate, and ending Reuben Teruo Tsujimura, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 19, 1993.

Navy nominations beginning Lee Thomas Baker, and ending Thomas Joseph Yurik, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 19, 1993.

Navy nominations beginning Charles L. Aley III, and ending Doreen E. Tate, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 19, 1993.

STATEMENT ON THE NOMINATIONS OF EUGENE A. BRICKHOUSE AND KATHY E. JURADO

Mr. ROCKEFELLER. Mr. President, as chairman of the Committee on Veterans' Affairs, I am pleased to recommend to the Senate the confirmation of two individuals to important positions in the Department of Veterans Affairs. The two nominees, and the positions to which they have been nominated, are:

Eugene A. Brickhouse to be Assistant Secretary for Human Resources and Administration; and

Kathy E. Jurado to be Assistant Secretary for Public and Intergovernmental Affairs.

These are two outstanding individuals, and I am confident that each will use their skills and talents to play key roles alongside the Secretary of Veterans Affairs, Jesse Brown, and Deputy Secretary, Hershel Gober, in providing the Department of Veterans Affairs with leadership and motivation.

The Committee held a hearing on October 28, 1993, at which both nominees responded candidly to questions from committee members. Each nominee also responded to pre- and post-hearing questions and completed the committee's questionnaire. After reviewing all these materials as well as the FBI reports on both individuals, I am satisfied that each is well suited to serve in the position for which they have been nominated. On Wednesday, November 3, 1993, our committee met to consider these nominations and voted unanimously to recommend their confirmation to the full Senate.

Mr. President, I would like to speak briefly regarding the two nominees.

A native of Exmore, VA, Eugene Brickhouse graduated from Virginia State University in 1962 and from the University of Texas in 1976 with a master's degree in management of human resources. He has a distinguished career in the Army, including extensive experience with human resource management and administrative matters.

In addition, for the last 18 months, Eugene has served as a professional staff member on the staff of the House Committee on Veterans' Affairs. He has been a valuable resource on Capitol Hill for everyone dedicated to veterans' issues.

Kathy Jurado was born in Tampa, FL, and received her undergraduate degree in government and international relations from the University of Notre Dame in 1982. She has experience in

public affairs both in the private and public sectors. She served as press secretary for the Florida Clinton-Gore 1992 campaign and is presently the University of South Florida's director of government relations. I am impressed by Kathy, and I am confident that she will be a highly effective Assistant Secretary for Public and Intergovernmental Affairs.

Mr. President, in conclusion, I reiterate my sense of satisfaction that these two nominees are well suited to take on the challenges of the positions for which they have been nominated, and I urge my colleagues to give them their unanimous support.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. 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 sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

TRADE OF RHINOCEROS AND TIGER PARTS—MESSAGE FROM THE PRESIDENT—PM68

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

On September 7, 1993, the Secretary of the Interior certified that the People's Republic of China (PRC) and Taiwan are engaging in trade of rhinoceros and tiger parts and products that diminishes the effectiveness of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Five rhinoceros species and the tiger are listed in Appendix I of CITES, which means that the species are threatened with extinction and no trade for primarily commercial purposes is allowed. Although recent actions by the PRC and Taiwan show that some progress has been made in addressing their rhinoceros and tiger trade, the record demonstrates that they still fall short of the international conservation standards of CITES. This letter constitutes my report to the Congress pursuant to section 8(b) of the Fisherman's Protective Act of 1967, as amended (Pelly Amendment) (22 U.S.C. 1978(b)).

The population of the world's rhinoceros has declined 90 percent within the last 23 years to the present level of of less than 10,000 animals, and the tiger population has declined 95 percent within this century to the present level of about 5,000. Neither the PRC nor Taiwan has fully implemented the international standards established by CITES for controlling the trade in these species, and the poaching of rhinoceroses and tigers continues in their native ranges fueled in part by the market demand in the PRC and Taiwan. These populations will likely be extinct in the next 2 to 5 years if the trade in their parts and products is not eliminated.

To protect the rhinoceros and tiger from extinction, all countries and entities that currently consume their parts and products must implement adequate legislative measures and provide for enforcement that effectively eliminates the trade, including taking actions to comply with the criteria set down by CITES in September 1993 and fully cooperating with all CITES delegations. The PRC and Taiwan have made good faith efforts to stop the trade in rhinoceros and tiger parts and products, and have, since the announcement of Pelly certification, undertaken some positive legislative and administrative steps in this regard. These efforts, however, have yet to yield effective reductions in trade.

I wish to support and build on these good faith efforts undertaken by the PRC and Taiwan. At the same time, I would like to make clear the U.S. position that only effective reductions in the destructive trade in these species will prevent the rhinoceros and tiger from becoming extinct. Accordingly, I have established an Interagency Task Force to coordinate the provision of U.S. technical assistance to the PRC and Taiwan to help them eliminate their illegal wildlife trade. I have also instructed the Department of the Interior, in coordination with the Department of State and the American Institute in Taiwan, to enter immediately into dialogue with the PRC and Taiwan regarding specific U.S. offers of trade and law enforcement assistance.

Actions by the PRC and Taiwan that would demonstrate their commitment to the elimination of trade in rhinoceros and tiger parts and products could include: at a minimum, consolidation and control of stockpiles; formation of a permanent wildlife or conservation law enforcement unit with specialized training; development and implementation of a comprehensive law enforcement and education action plan; increased enforcement penalties; prompt termination of amnesty periods for illegal holding and commercialization; and establishment of regional law enforcement arrangements. I would expect that in taking these actions, the PRC and Taiwan would take account of the recommendations by the CITES Standing Committee and other CITES subsidiary bodies. In that regard, I am pleased to announce that the United States will participate in a delegation to the PRC and Taiwan organized by CITES to evaluate their progress between now and the March 1994 CITES Standing Committee meeting.

At its last meeting, the CITES Standing Committee unanimously recommended that parties consider implementing "stricter domestic measures up to and including prohibition in trade in wildlife species now" against the PRC and Taiwan for their trade in rhinoceros and tiger parts and products. The United States is prepared, through close dialogue and technical aid, to assist the PRC and Taiwan. I hope that both will demonstrate measurable, verifiable, and substantial progress by March 1994. Otherwise, import prohibitions will be necessary, as recommended by the CITES Standing Committee.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 8, 1993.*

MESSAGES FROM THE HOUSE

At 1:59 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 bill (S. 1490) to amend Public Law 100-518 and the U.S. Grain Standards Act to extend the authority of the Federal Grain Inspection Service to collect fees to cover administrative and supervisory costs, and for other purposes; with amendments, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2151. An act to amend the Merchant Marine Act, 1936, to establish the Maritime Security Fleet program, and for other purposes.

At 7:09 p.m. a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 616. 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.

H.R. 175. An act to amend title 18, United States Code, to authorize the Federal Bureau of Investigation to obtain certain subscriber information.

H.R. 1345. An act to designate the Federal building located at 280 South First Street in San Jose, CA, as the "Robert F. Peckham United States Courthouse and Federal Building."

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 2151. An act to amend the Merchant Marine Act, 1936, to establish the Maritime Security Fleet program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

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–1735. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation entitled "The Retail Food Store Authorization Act of 1993"; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1736. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of General Accounting Office reports from the month of September, 1993; to the Committee on Governmental Affairs.

EC–1737. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report to Congress on direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–1738. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report to Congress on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC–1739. A communication from the Director of the Administrative Office of the United States Courts, transmitting, pursuant to law, a draft of proposed legislation to make improvements in the operation and administration of the Federal courts, and for other purposes; to the Committee on the Judiciary.

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. COCHRAN (for himself, Mr. SPECTER, Mr. LOTT, and Mr. FORD):

S. 1632. To extend the effectiveness of an exemption from the requirements of the Depository Institution Management Interlocks Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. RIEGLE (for himself and Mr. D'AMATO):

S. 1633. A bill to consolidate under a new Federal Banking Commission the supervision of all depository institutions insured under the Federal Deposit Insurance Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HEFLIN:

S. 1634. A bill to authorize each State and certain political subdivisions of States to control the movement of municipal solid waste generated within, or imported into, the State or political subdivisions of the State, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MACK:

S. 1635. A bill to authorize a certificate of documentation for certain vessels; to the Committee on Commerce, Science, and Transportation.

By Mr. KERRY (for himself, Mr. STEVENS, and Mr. PACKWOOD):

S. 1636. A bill to authorize appropriations for the Marine Mammal Protection Act of 1972 and to improve the program to reduce the incidental taking of marine mammals during the course of commercial fishing operations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. JOHNSTON:

S. 1637. A bill to provide a more effective, efficient, and responsive Department of the Interior; to the Committee on Energy and Natural Resources.

S. 1638. A bill to provide a more effective, efficient, and responsive Department of Energy; to the Committee on Energy and Natural Resources.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 1639. A bill for the management of portions of the Presidio under the jurisdiction of the Secretary of the Interior, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. EXON:

S. 1640. A bill to amend the Hazardous Materials Transportation Act to authorize appropriations to carry out that Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MACK:

S. 1641. A bill to authorize a certificate of documentation for the vessel *Inspiration*; to the Committee on Commerce, Science, and Transportation.

S. 1642. A bill to authorize a certificate of documentation for the vessel *Princess Xanadu of Monaco*; to the Committee on Commerce, Science, and Transportation.

S. 1643. A bill to authorize a certificate of documentation for the vessel *Match Maker*; to the Committee on Commerce, Science, and Transportation.

S. 1644. A bill to authorize a certificate of documentation for the vessel *Later*; to the Committee on Commerce, Science, and Transportation.

S. 1645. A bill to authorize a certificate of documentation for the vessel *Venus*; to the Committee on Commerce, Science, and Transportation.

By Mr. LEAHY:

S. 1646. A bill to amend the Food Stamp Act of 1977 to reduce food stamp fraud and improve the food stamp program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTION

By Mr. RIEGLE (for himself and Mr. D'AMATO):

S. 1633. A bill to consolidate under a new Federal Banking Commission the supervision of all depository institutions insured under the Federal Deposit Insurance Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

REGULATORY CONSOLIDATION ACT OF 1993

• Mr. RIEGLE. Mr. President, I rise to introduce the Regulatory Consolidation Act of 1993 together with the ranking Republican on the Senate Banking, Housing, and Urban Affairs Committee, Senator ALFONSE D'AMATO. This legislation addresses three important needs in America's financial regulatory system: First, the need to modernize and streamline the outdated anachronistic system under which the Nation's banking and thrift institutions currently must operate; second, the need to increase the effectiveness of Federal Government oversight of depository institutions by integrating responsibility for Federal supervision and examination in a single regulatory body; and third, the need to reduce unnecessary regulatory compliance costs on the industry wherever possible without sacrificing safety and soundness.

Our bill would combine the supervisory and regulatory functions of the Comptroller of the Currency, the Federal Reserve Board, the Federal Deposit Insurance Corporation and the Office of Thrift Supervision into a single Federal Banking Commission.

AMERICA'S FLAWED BANK REGULATORY SYSTEM

Today, we have four entirely separate Federal banking agencies. Each has its own squad of examiners, its own bureaucracy, and its own regulations. No thoughtful person would ever design such a system from scratch. In fact, nobody planned our present bank regulatory system—it's a product of historical accident.

America's bank regulatory system evolved as a reaction to crisis. Running short of money to fund the Civil War, Congress created the Office of the Comptroller of the Currency to facilitate war financing efforts in 1863. In 1913, Congress established the Federal Reserve System to stabilize the industry after a series of banking panics. In 1933, Congress created the FDIC to introduce a system of Federal deposit insurance and restore confidence in our financial system after hundreds of bank failures. And the Office of Thrift Supervision also had its roots in the Depression, only to be transformed into its present form after the savings and loan crisis.

This piecemeal regulatory system is clearly out of date and in critical need of overhaul. It generates needless expense and endless confusion for America's banks and thrifts. Money that the banking industry could make available for lending to its customers is spent instead to support well-intentioned—but only marginally successful—efforts at complying with multiple agency mandates.

In fact, our current bank regulatory system has virtually no defenders outside the regulatory agencies themselves. As former FDIC Chairman William Seidman recently acknowledged:

> The financial institutions regulatory system is complex, inefficient, outmoded and archaic. It needs to be reformed with a single independent federal regulator. (Do not bother to ask regulators about it; their turf is their only message.)

TESTIMONY OF EX-REGULATORS AND EXPERTS

On September 14, 1993, the Senate Banking Committee received testimony from a bipartisan group of six former financial regulators, together with former Senate Banking Committee Chairman William Proxmire and current House Banking Committee Chairman HENRY GONZALEZ.

The group was unanimous and unequivocal in its view that the current system is costly, burdensome, inefficient, archaic and the time has come for it to be re-engineered and modernized.

Our witnesses were also unanimous and unequivocal on the following issues:

Major consolidation would benefit consumers;

Major consolidation would benefit the industry;

Major consolidation would improve the safety and soundness of the financial services industry; and

Reforming our bank and regulatory bureaucracy is long overdue and now is the time to address the need for major consolidation. We have a new administration committed to change. Banks and thrifts are posting record profits, and both the Congress and the administration are committed to cost-saving, deficit reduction and a more efficient government. This issue must be addressed in the administration's ongoing efforts to reinvent Government.

As I have said, these views were shared by every single one of our witnesses. Here are some brief excerpts of what each had to say about the current bank regulatory system:

William Proxmire, chairman of the Senate Committee on Banking, Housing, and Urban Affairs from 1975 to 1980 and 1987 to 1989:

We have the most bizarre, entangled regulatory system in the world. It never ceases to amaze me that it has lasted this long.

* * * I should like to add the recommendation that at an absolute minimum the Congress consolidate the bank regulatory functions of the Comptroller of the Currency, the Federal Reserve Board and the FDIC in a single agency * * * [T]he minimum consolidation of bank regulation should also include the bank regulating functions of these three agencies and the Office of Thrift Supervision.

HENRY B. GONZALEZ, current chairman of the House Committee on Banking, Finance and Urban Affairs:

Our current system of regulation operates like a Hydra-headed monster, with its many heads flailing around, each with a mind of its own and indifferent to the activities of the other. Certainly, no rational person would have ever designed such a system for regulating the nation's banks and thrifts.

Consolidation of the regulatory functions [OCC, Federal Reserve, FDIC and OTS] into a single, independent regulator would result in many benefits.

L. William Seidman, chairman of the Federal Deposit Insurance Corporation from 1985 to 1991:

If one wants to talk about "reinventing government", one doesn't have to be a Thomas Edison to recognize that this is an obvious place to start * * * regulatory restructuring is necessary for the following reasons: to simplify the system and make its regulations uniform; to make it more effective and efficient; to make it operate on a timely basis; to make our financial system more competitive; and to reduce frustration and the resultant consumption of stomach pills.

John G. Heimann, Comptroller of the Currency from 1977 to 1981:

I first testified in favor of reorganizing the banking supervisory structure in 1975 and, since that time, have consistently argued for banking agency consolidation both while I was in government service and after my return to the private sector. My view as to the wisdom of consolidation remains the same some 18 years later. The system we have today is archaic, expensive, duplicative and inefficient. The costs are unnecessarily burdensome. Directly and indirectly, they are borne by the consumer and the shareholder. They can be meaningfully reduced without harmful consequences. In fact, I would argue that consolidation would improve the system of banking supervision at less cost.

We should create a Federal Banking Commission (F.B.C.) which would envelop the present bank supervisory activities of the OCC, OTS, FDIC, FRB and the National Credit Union Administration (N.C.U.A.).

H. Joe Selby, Executive Vice President and Director of Regulatory Affairs at the Federal Home Loan Bank of Dallas from 1986 to 1988; Senior Deputy Comptroller of the Currency from 1975 to 1986; and Acting Comptroller of the Currency in 1985:

The present regulatory apparatus is outdated and outmoded. Created in response to financial crises, and to the introduction of new financial products, it has been rendered inefficient and ineffective in many respects by the rapid changes in the financial system.

Multiple federal agencies with overlapping responsibilities only promote duplication, inconsistency and inefficiency.

Responsibility for regulation and supervision of all federally insured depository institutions and holding companies should be vested in a single, federal financial institution supervisory agency.

Andrew F. Brimmer, member of the board of governors of the Federal Reserve System from 1966 to 1974:

* * * Uneven bank examination standards—growing out of our fragmented Federal Bank Regulatory Apparatus—contributed to the severe credit crunch of 1990–91 and aggravated the recession which occurred in those years.

The Federal Bank Regulatory structure should be revamped. The Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration should all be abolished.

Richard C. Breeden, Chairman of the Securities and Exchange Commission from 1989–93; Deputy Counsel to the Vice-President and Staff Director of the Task Group on Regulation of Financial Services from 1982–85:

Our current bank regulatory system is simply too big, too costly, and too inefficient. At a time when we face extremely difficult and painful choices as a nation regarding resource allocation and government spending priorities, it is surprising that the bank regulatory system has remained seemingly immune to reductions in overcapacity and elimination or privatization of unnecessary functions. Indeed, the total employment of the depository regulatory agencies in the U.S. is over 40,000 persons. This exceeds the size of several NATO armies, and it is more than 15 *times* greater than the total employment of the SEC, even though the SEC oversees approximately the same number of entities of different types with aggregate assets at least double all the deposits of banks and thrifts in the U.S.

It would be a substantial improvement from the status quo if each banking company could have a single regulator (rather than 2 or 3). Of course, total consolidation of the bank and thrift agencies would allow substantial cost-savings through the elimination of redundant facilities, staff and other overhead.

Today's bank regulatory system is so costly that it is creating a major threat to the competitiveness of commercial banks, and thereby undercutting to some degree the objectives the system is designed to achieve.

Timothy Ryan, Director of the Office of Thrift Supervision from 1990–92:

There is only one word to describe all this. That word is gridlock. No one creating a regulatory system today would design such a mechanism.

Government has the opportunity to make the regulatory world over again not for regulation's sake, but for America's safety and competitiveness. Regulatory agency restructuring has been studied for years. Almost every report issued over the last three decades has recognized the need for and benefits of consolidation.

What is the best structure? Simply stated, I believe that all bank and thrift regulatory activities should be consolidated into one agency. This agency should have all of the authority that today is vested in the multiple agencies. I know this proposal will raise turf issues. That debate, however, is not worth the time or energy.

Consolidation makes sense and could be easily implemented over a two year period. Now, it's time to "just do it."

THE NEED FOR REFORM

The fact that we have just emerged from America's greatest financial crisis since the Great Depression makes this an especially good time for Congress to look at regulatory consolidation. First, we learned the hard way of the enormous price that America's taxpayers and financial institutions are forced to pay by inefficient regulation. And second, for the first time in several years we can look at important administrative issues like regulatory restructuring outside of a crisis environment.

America needs a more rational, modern bank regulatory system. The current system is needlessly complex. The Banking Committee also held hearings in 1991 on several regulatory restructuring proposals. We discovered at least three major problems with the existing regulatory structure.

Lack of independence: Like monetary policy, bank regulation should be separated from political influence. Bank regulatory policy should be decided on its virtue and not by the direction of blowing political winds. In

his testimony before the Banking Committee, Steve Roberts, a former aide to Fed Chairman Paul Volcker, gave his rationale for an independent banking regulator this way:

Independent agencies are able to function well for several reasons: they tend to have a continuity of leadership, they have a continuity of mission and purpose with dedicated professional staffs, and a clear mandate. Regulatory agencies that are parts of government departments normally lack such continuity and are generally headed by an individual who has great influence on the staff, the bureau's approach to its mission and objectives, and its approach to regulation and supervision.

Regulator delays: By fragmenting authority, the current system impedes timely decisionmaking because of internal squabbling among the banking agencies, and hinders efforts to make needed changes in the banking regulations. As former Senator William Proxmire said in testimony before the Banking Committee:

Our banking and financial system is undergoing rapid technological change where new and complex practices are introduced almost daily. Bank regulators cannot possibly stay on top of this constantly changing financial system if they must spend most of their time fighting turf wars.

Unhealthy competition among regulators: In recent years the heads of the four Federal bank regulatory agencies have all testified in favor of meaningful consolidation of the agencies, and indeed the agencies have made limited progress in carrying out their responsibilities in a properly coordinated manner. Nevertheless, the overlapping jurisdiction in the present regulatory structure continues to foster unhealthy competition among the agencies.

Just last week on October 30, The Washington Post carried a story about the proposal of the Nation's eighth largest banking organization, Wells Fargo, to trade its bank charter for a savings and loan charter in order to take advantage of less restrictive rules on interstate branching and permissible activities. The story went on to note that the proposal would have put Federal regulators on the spot and was dropped because it might be too controversial.

As Fed Chairman Arthur Burns stated in the early 1970's:

The present system is conducive to subtle competition among the regulatory authorities, sometimes to relax constraints, sometimes to delay corrective measures.

Wolfgang Reinicke of the Brookings Institution, testifying in 1991 before the Banking Committee agreed:

The fewer the number of Government agencies, the lesser the regulatory overlap and the lower the chance that short-term institutional competition will override long-term public policy.

Regulatory consolidation is not a new or radical idea. The need to merge the Federal bank regulatory agencies has been widely acknowledged for decades. In 1949, the Hoover Commission was the first of a series of high-level commissions to recommend consolidation of the bank regulatory apparatus. In 1962, the Commission on Money and Credit did the same. In the mid-1970's, my predecessor, Chairman Proxmire, held hearings on regulatory consolidation and introduced legislation on three occasions. In the early 1980's, the Reagan administration embraced regulatory consolidation as a cost-saving measure. And the Bush administration included a stripped-down regulatory consolidation proposal in the initial legislative package sent to Congress in 1991—the package that ultimately became FDICIA. So I want to be the first to acknowledge that this bill has many ancestors.

John Sandner, the chairman of the Chicago Mercantile Exchange, earlier this year outlined his own regulatory consolidation proposal. At a news conference, Mr. Sandner called the current Federal system of financial regulation "an expensive morass of duplication and inefficiency." And just recently in an interview with the American Banker, David Mullins, the vice chairman of the Federal Reserve Board, also called for a more rational Federal bank regulatory system, saying "there's no question that we need to move to a more streamlined system." He declared the current structure "costly and cumbersome and tending not to lead to decisive actions when needed."

I completely agree with Mr. Sandner and Mr. Mullins. Reform of our regulatory system is long overdue.

It will be a tough fight, however. In testimony before the Banking Committee in 1991, Senator Proxmire warned of the difficulties facing his earlier consolidation proposals (which did not include the thrift regulator):

I seriously underestimated the depth of the entrenched opposition to regulatory consolidation. All three bank regulatory agencies vehemently opposed the legislation. Privately, however, each agency let it be known it would withdraw its objections if it could assume the powers of the other two.

Therefore, it's important to recognize that regulatory consolidation will serve many vital interests beyond those of the banking agencies:

For taxpayers, regulatory consolidation means more effective Federal supervision and examination of depository institutions, which translates into better protection against the risk that taxpayer funds will ever again need to be called on because losses outstrip Federal deposit insurance funds.

For bank and thrift customers and the general public, regulatory consolidation means a more accountable, more responsive bank regulatory system. Citizens will no longer have to guess which faceless agency is responsible for the particular institution they bank with. Whether it's a bank or a thrift, they'll know that the Federal Banking Commission is the place to turn if there's a problem.

For the American economy, regulatory consolidation means more efficient government and a more vital, cost-effective, and competitive banking system. No other country hobbles its financial system with so many bank regulators. With a streamlined regulatory system, our financial institutions will be able to put more effort into their business and less into coping with their regulators.

For the banking industry, consolidation holds the promise of a more rational system of Federal oversight, with substantially reduced examination and supervision fees, less frequent and less intrusive examinations, and reduced need to sort out inconsistent and even conflicting regulatory guidance.

KEY PROVISIONS OF THIS BILL

Let me now briefly describe how the bill I am introducing today would reform America's bank regulatory system.

The bill would establish a five-member Federal Banking Commission to supervise and regulate all FDIC-insured depository institutions. Although the Commission would be an independent agency, its members would include both the Secretary of the Treasury—or the Secretary's designee—and a member of the Federal Reserve Board. Three independent Commissioners appointed for staggered 6-year terms would also serve on the Commission. The President would designate one of these independent Commissioners to serve as Chairman of the Commission and another to serve as Vice Chairman.

I believe this structure provides both the administration and the Federal Reserve Board with the information and oversight they need with regard to bank regulation while simultaneously fulfilling the vital need for political independence in financial regulation.

The Commission would assume the regulatory and supervisory functions currently exercised by the Comptroller of the Currency with respect to national banks; the Federal Reserve Board over bank holding companies and State-chartered banks that belong to the Federal Reserve System; the FDIC with respect to other State-chartered banks; and the Office of Thrift Supervision with respect to savings associations and savings association holding companies. The FDIC, as deposit insurer, would retain its existing backup enforcement authority. The Federal Reserve would retain all of its central bank monetary policy, lender of last resort, and payment system responsibilities and would have access, through the Federal Banking Commission, to all the information and resources it needs to deal with potential systemic risk issues. I should point out that there are many powerful central

banks around the world. As one of our witnesses pointed out, the German Bundesbank is notably among them and it is not only a powerful and effective central bank but it spends 100 percent of its time worrying about monetary policy and the value of the currency. Regulation and insurance of credit unions would remain exactly as they are today.

The bill would require the consolidation of regulatory functions to occur on a date set by the Secretary of the Treasury. The goal would be to achieve consolidation within 10 months after the bill becomes law, but the Secretary would have discretion to extend the period by an additional 5 months. To facilitate a timely and orderly consolidation, the act would urge the President to nominate the initial group of appointed Commissioners at least 3 months before the consolidation date, and urge the Senate Banking Committee to act on those nominations at least 45 days before that date.

Finally, the bill would also reform the Board of the FDIC to reflect the abolition of the Office of the Comptroller of the Currency and the Office of Thrift Supervision by giving both the Secretary of the Treasury—or the Secretary's designee—and the Chairman of the Federal Banking Commission seats on the FDIC Board.

Those are the essential provisions of this bill. Let me state as clearly as I can that I believe strongly that the time is now for full consolidation of the supervisory responsibilities of the four agencies—any alternative that doesn't go this far would simply result in another kind of regulatory hodgepodge. On other details of my bill I have an open mind. I therefore view this bill as an important first step—the central tenet of my view of what can best provide constructive solutions to the regulatory burden problem and to become the foundation of a meaningful discussion of a much-needed, modern bank regulatory structure for the future.

CONCLUSION

The bill I am offering today can go a great distance toward relieving the regulatory burdens many bankers are feeling, improving the efficiency and effectiveness of regulation, and placing America's financial system on a sound regulatory footing for generations ahead. I urge my colleagues to consider it carefully and lend it their support. I urge the administration to seize this unique moment of opportunity to reinvent and reengineer Government in a major, meaningful way.

Mr. President, I ask unanimous consent that the text of the bill, an analysis of it, together with additional material, be printed in the RECORD at the conclusion of my remarks.

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

S. 1633

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Regulatory Consolidation Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—FEDERAL BANKING COMMISSION

Sec. 101. Establishment.
Sec. 102. Management.
Sec. 103. Federal banking commissioners.
Sec. 104. Powers and duties of the Commission.
Sec. 105. Conforming amendment relating to transfers of functions.
Sec. 106. Designated transfer date.
Sec. 107. Timing of initial appointments.
Sec. 108. Access by the Federal Reserve Board to the Commission's records.

TITLE II—ABOLITION OF FEDERAL BANKING AGENCIES

Sec. 201. Office of Comptroller of the Currency and position of Comptroller of the Currency abolished.
Sec. 202. Office of Thrift Supervision and position of Director of the Office of Thrift Supervision abolished.
Sec. 203. Savings provisions.
Sec. 204. References in Federal law to Federal banking agencies.
Sec. 205. Disposition of affairs.
Sec. 206. Status of employees.
Sec. 207. Transfer of property.
Sec. 208. Conforming changes in Federal Deposit Insurance Corporation Board of Directors.
Sec. 209. Comptroller's currency-related functions repealed.
Sec. 210. Federal Financial Institutions Examination Council abolished.

SEC. 2. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) APPOINTED COMMISSIONER.—The term "appointed commissioner" means a commissioner appointed by the President under section 102(3).

(2) CHAIRPERSON.—The term "Chairperson" means the Chairperson of the Federal Banking Commission.

(3) COMMISSION.—The term "Commission" means the Federal Banking Commission.

(4) DESIGNATED TRANSFER DATE.—The term "designated transfer date" means the date designated under section 106.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(6) CERTAIN OTHER TERMS.—The terms "company", "control" (when used with respect to an insured depository institution), and "insured depository institution" have the same meaning as in section 3 of the Federal Deposit Insurance Act.

TITLE I—FEDERAL BANKING COMMISSION

SEC. 101. ESTABLISHMENT.

There is established the Federal Banking Commission as an independent establishment in the executive branch.

SEC. 102. MANAGEMENT.

The management of the Commission shall be vested in 5 commissioners, including—

(1) the Secretary of the Treasury (or the Secretary's designee);

(2) 1 member of the Board of Governors of the Federal Reserve System designated as a commissioner by resolution of the Board of Governors; and

(3) 3 commissioners appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States.

SEC. 103. FEDERAL BANKING COMMISSIONERS.

(a) POLITICAL AFFILIATION.—Not more than 3 commissioners may be members of the same political party.

(b) CHAIRPERSON AND VICE CHAIRPERSON.—

(1) CHAIRPERSON.—The President shall, by and with the advice and consent of the Senate, designate 1 of the appointed commissioners, at the time of that person's appointment to the Commission, to serve as the Chairperson of the Commission for a term of 6 years (or, in the case of any appointment under subsection (c)(2), for the remainder of the commissioner's term as a commissioner).

(2) VICE CHAIRPERSON.—The President shall, by and with the advice and consent of the Senate, designate 1 of the appointed commissioners, at the time of that person's appointment to the Commission, to serve as the Vice Chairperson of the Commission for a term of 6 years (or, in the case of any appointment under subsection (c)(2), for the remainder of the commissioner's term as a commissioner).

(3) ACTING CHAIRPERSON.—The Vice Chairperson shall act as Chairperson if—

(A) the position of Chairperson is vacant; or

(B) the Chairperson is absent or disabled.

(c) APPOINTED COMMISSIONERS' TERMS.—

(1) 6-YEAR TERM.—Except as provided in paragraphs (3) and (4), each appointed commissioner shall be appointed for a term of 6 years.

(2) UNEXPIRED TERMS.—Any commissioner appointed to fill a vacancy occurring before the end of the term to which the commissioner's predecessor was appointed shall be appointed only for the remainder of the term.

(3) INITIAL APPOINTMENTS STAGGERED.—Of the first commissioners to be appointed under section 102(3)—

(A) 1 shall be appointed for a term to expire 6 years after the designated transfer date;

(B) 1 shall be appointed for a term to expire 4 years after the designated transfer date; and

(C) 1 shall be appointed for a term to expire 2 years after the designated transfer date,

as designated by the President at the time of the appointment.

(d) VACANCY.—Any vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(e) EMPLOYMENT AND OTHER RESTRICTIONS.—

(1) IN GENERAL.—During service on the Commission, no commissioner may—

(A) hold any office or position, or otherwise be employed by, any insured depository institution or company having control of an insured depository institution;

(B) hold stock or other securities of any insured depository institution or company having control of an insured depository institution;

(C) serve as an officer, director, or employee of any Federal Reserve bank or Federal home loan bank; or

(D) serve as an officer, director, or employee of any organization other than a nonprofit organization organized for charitable, educational, or other public purposes.

(2) CERTIFICATION.—Upon taking office, each commissioner shall file with the Commission a certification under penalty of perjury that the commissioner is in compliance with paragraph (1).

(3) APPOINTED COMMISSIONERS' POST-SERVICE EMPLOYMENT RESTRICTED.—

(A) IN GENERAL.—No appointed commissioner may hold any office or position in, or otherwise be employed by, any insured depository institution or company having control of an insured depository institution, during the 2-year period beginning on the date on which the commissioner ceases to serve on the Commission.

(B) EXCEPTION FOR COMMISSIONERS WHO SERVE FULL TERMS.—Subparagraph (A) does not apply to any commissioner who has served the full term for which that commissioner was appointed.

(f) COMPENSATION.—

(1) CHAIRPERSON.—Section 5313 of title 5, United States Code, is amended by adding at the end the following new item:

"Chairperson of the Federal Banking Commission.".

(2) OTHER APPOINTED COMMISSIONERS.—Section 5314 of title 5, United States Code, is amended by adding at the end the following new item:

"Presidentially appointed members of the Federal Banking Commission (2).".

SEC. 104. POWERS AND DUTIES OF THE COMMISSION.

(a) REGULATION OF NATIONAL BANKS.—

(1) TRANSFER OF FUNCTIONS.—All functions of the Comptroller of the Currency are transferred to the Commission.

(2) COMMISSION'S AUTHORITY.—The Commission shall have all powers and duties that were vested in the Comptroller of the Currency before the designated transfer date.

(b) REGULATION OF SAVINGS ASSOCIATIONS AND SAVINGS AND LOAN HOLDING COMPANIES.—

(1) TRANSFER OF FUNCTIONS.—All functions of the Director of the Office of Thrift Supervision are transferred to the Commission.

(2) COMMISSION'S AUTHORITY.—The Commission shall have all powers and duties that were vested in the Director of the Office of Thrift Supervision before the designated transfer date.

(c) REGULATION OF MEMBER BANKS, BANK HOLDING COMPANIES AND AFFILIATES, AND VARIOUS INTERNATIONAL BANKING ENTITIES.—

(1) TRANSFER OF FUNCTIONS.—All functions of the Board of Governors of the Federal Reserve System (and any Federal Reserve bank) relating to the supervision and regulation of the following entities are transferred to the Commission:

(A) Banks that are members of the Federal Reserve System.

(B) Bank holding companies and their subsidiaries and affiliates.

(C) Companies operating under the International Banking Act of 1978 and sections 25 and 25A of the Federal Reserve Act.

(D) Companies that are subject to supervision or regulation by the Board of Governors of the Federal Reserve System under any title of the Consumer Credit Protection Act.

(2) COMMISSION'S AUTHORITY.—The Commission shall have all powers and duties that, before the designated transfer date, were vested in the Board of Governors of the Federal Reserve System under the following provisions of law:

(A) Sections 6 (other than the 1st and 2d paragraphs), 9, 19(h), 23, 23A, 23B, 24(a), 24A, 25, 25A, and 29, and subsections (g) and (h) of section 22, of the Federal Reserve Act.

(B) The Bank Holding Company Act of 1956.

(C) The Bank Holding Company Act Amendments of 1970.

(D) The International Banking Act of 1978.

(E) Sections 20, 31, and 32 of the Banking Act of 1933.

(F) The Federal Deposit Insurance Act.

(G) Any title of the Consumer Credit Protection Act.

(H) The Bank Protection Act of 1968.

(I) The Home Mortgage Disclosure Act of 1975.

(J) The Community Reinvestment Act of 1977.

(K) The Depository Institution Management Interlocks Act.

(L) The Bank Service Corporation Act.

(M) The Federal Financial Institutions Examination Council Act of 1978.

(N) The Right to Financial Privacy Act of 1978.

(O) The Alternative Mortgage Transaction Parity Act of 1982.

(P) The International Lending Supervision Act of 1983.

(Q) The Expedited Funds Availability Act.

(R) The Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(S) The Federal Deposit Insurance Corporation Improvement Act of 1991.

(T) The Depository Institutions Disaster Relief Act of 1992.

(d) REGULATION OF STATE NONMEMBER BANKS.—

(1) TRANSFER OF FUNCTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), all functions of the Federal Deposit Insurance Corporation (and its Board of Directors) relating to the supervision and regulation of State nonmember banks are transferred to the Commission.

(B) INSURANCE-RELATED FUNCTIONS EXCEPTED.—The functions of the Federal Deposit Insurance Corporation relating to insurance, conservatorship, or receivership functions shall not be transferred to the Commission.

(2) COMMISSION'S AUTHORITY.—The Commission shall have all powers and duties that, before the designated transfer date, were vested in the Federal Deposit Insurance Corporation under the following provisions of law:

(A) Sections 7(a), 20, 21, 22, 27, 30(c), 32, 33, 34, 35, 36, 37, and 39, subsections (b) through (n), (r), (s), (u), and (v) of section 8, subsections (b)(2)(A), (c), (d), and (e) of section 10, and subsections (c) (other than paragraph (1)), (d), (g), (i), (j), (l), (o), and (p) of section 18 of the Federal Deposit Insurance Act.

(B) Any title of the Consumer Credit Protection Act.

(C) The Depository Institution Management Interlocks Act.

(D) The Federal Financial Institutions Examination Council Act of 1978.

(E) The Home Mortgage Disclosure Act of 1975.

(F) The Right to Financial Privacy Act of 1978.

(G) The Alternative Mortgage Transaction Parity Act of 1982.

(H) The Bank Service Corporation Act.

(I) The Expedited Funds Availability Act.

(J) The Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(K) The Community Reinvestment Act of 1977.

(L) The Federal Deposit Insurance Corporation Improvement Act of 1991.

(M) The Depository Institutions Disaster Relief Act of 1992.

(e) SCHOOLS FOR EXAMINERS.—All functions of the Federal Financial Institutions Examination Council relating to the conduct of schools for examiners and assistant examiners pursuant to section 1006(d) of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3305(d)) are transferred to the Commission.

(f) EFFECTIVE DATE.—Subsections (a) through (e) shall become effective on the designated transfer date.

(g) REGULATIONS AND ORDERS.—In addition to any powers transferred to the Commission under subsections (a) through (e), the Commission may prescribe such regulations and issue such orders as the Commission may determine to be appropriate to carry out this Act and the powers and duties of the Commission transferred under subsections (a) through (e).

SEC. 105. CONFORMING AMENDMENT RELATING TO TRANSFERS OF FUNCTIONS.

Effective on the designated transfer date, section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)) is amended to read as follows:

"(q) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency' means the Federal Banking Commission.".

SEC. 106. DESIGNATED TRANSFER DATE.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary, in consultation with the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Chairman of the Board of Governors of the Federal Reserve System, and the Chairperson of the Federal Deposit Insurance Corporation, shall, by order, designate a single calendar date by which to complete the transfer of functions to the Commission under section 104.

(b) AMENDED DESIGNATION.—The Secretary may, by order, change the date designated under subsection (a).

(c) PERMISSIBLE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), any date designated under this section shall be not earlier than 120 days nor later than 300 days after the date of enactment of this Act.

(2) EXTENSION OF TIME.—The Secretary may designate a date that is later than 300 days after the date of enactment of this Act if the Secretary transmits to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a written certification that orderly implementation of this Act is not feasible before the last date designated under this section together with—

(A) an explanation of why orderly implementation of this Act is not feasible before any other date designated under this section;

(B) a description of the steps that have been taken to effect an orderly implementation of this Act—

(i) within the period described in paragraph (1); or

(ii) if the Secretary has previously designated a date under this paragraph, before that date; and

(C) a description of the steps that will be taken to effect an orderly and timely implementation of this Act.

(3) EXTENSION LIMITATION.—In no case shall any date designated under this section be later than 450 days after the date of enactment of this Act.

SEC. 107. TIMING OF INITIAL APPOINTMENTS.

It is the sense of the Senate that—

(1) it is highly desirable that all of the first commissioners to be appointed by the President under section 102(3) be appointed and

qualified not later than 20 days before the designated transfer date; and

(2) accordingly—

(A) the President should transmit those commissioners' appointments to the Senate not later than 90 days before the designated transfer date; and

(B) the Committee on Banking, Housing, and Urban Affairs of the Senate should act on those appointments not later than 45 days before the designated transfer date.

SEC. 108. ACCESS BY THE FEDERAL RESERVE BOARD TO THE COMMISSION'S RECORDS.

For the purpose of carrying out its functions under the Federal Reserve Act, the Board of Governors of the Federal Reserve System shall have access to—

(1) all books, accounts, records, reports, files, memoranda, papers, things, property belonging to or in use by the Commission; and

(2) all reports of examination;

that relate to insured depository institutions or other depository institutions (as defined in section 19(b)(1)(A) of the Federal Reserve Act) or companies having control of insured depository institutions or other depository institutions; and together with related work papers and correspondence files, and all without any deletions.

TITLE II—ABOLITION OF FEDERAL BANKING AGENCIES

SEC. 201. OFFICE OF COMPTROLLER OF THE CURRENCY AND POSITION OF COMPTROLLER OF THE CURRENCY ABOLISHED.

(a) IN GENERAL.—Effective on the designated transfer date, the Office of the Comptroller of the Currency and the position of Comptroller of the Currency are abolished.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Effective—

(1) on the designated transfer date—

(A) chapter 9 of title VII of the Revised Statutes is amended by striking sections 324, 325, and 326; and

(B) subchapter I of chapter 3 of title 31, United States Code, is amended by striking section 307; and

(2) 90 days after the designated transfer date, section 5314 of title 5, United States Code, is amended by striking "Comptroller of the Currency.".

SEC. 202. OFFICE OF THRIFT SUPERVISION AND POSITION OF DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION ABOLISHED.

(a) IN GENERAL.—Effective on the designated transfer date, the Office of Thrift Supervision and the position of Director of the Office of Thrift Supervision are abolished.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Effective—

(1) on the designated transfer date—

(A) the Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended by striking section 3; and

(B) subchapter I of chapter 3 of title 31, United States Code, is amended by striking section 309; and

(2) 90 days after the designated transfer date, section 5314 of title 5, United States Code is amended by striking "Director of the Office of Thrift Supervision.".

SEC. 203. SAVINGS PROVISIONS.

(a) SAVINGS PROVISIONS RELATING TO THE COMPTROLLER OF THE CURRENCY.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Sections 104(a)(1) and 201 shall not affect the validity of any right, duty, or obligation of the United States, the Comptroller of the Currency, the Office of the Comptroller of the Currency, or any other person, that existed on the day before the designated transfer date.

(2) CONTINUATION OF SUITS.—This Act shall not abate any proceeding commenced by or against the Comptroller of the Currency or the Office of the Comptroller of the Currency, except that the Commission shall be substituted for the Comptroller or the Office as a party to any such proceeding as of the designated transfer date.

(b) SAVINGS PROVISIONS RELATING TO THE DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Sections 104(b)(1) and 202 shall not affect the validity of any right, duty, or obligation of the United States, the Director of the Office of Thrift Supervision, the Office of Thrift Supervision, or any other person, that existed on the day before the designated transfer date.

(2) CONTINUATION OF SUITS.—This Act shall not abate any proceeding commenced by or against the Director of the Office of Thrift Supervision or the Office of Thrift Supervision, except that the Commission shall be substituted for the Director or the Office as a party to any such proceeding as of the designated transfer date.

(c) SAVINGS PROVISIONS RELATING TO THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section 104(c)(1) shall not affect the validity of any right, duty, or obligation of the United States, the Board of Governors of the Federal Reserve System, or any other person that—

(A) arises under any provision of law referred to in section 104(c)(1); and

(B) existed on the day before the date of enactment of this Act.

(2) CONTINUATION OF SUITS.—This Act shall not abate any proceeding commenced by or against the Board of Governors of the Federal Reserve System with respect to any function transferred to the Commission, except that the Commission shall be substituted for the Board of Governors as a party to any such proceeding as of the designated transfer date.

(d) SAVINGS PROVISIONS RELATING TO THE FEDERAL DEPOSIT INSURANCE CORPORATION.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section 104(d)(1) shall not affect the validity of any right, duty, or obligation of the United States, the Federal Deposit Insurance Corporation, the Board of Directors of that Corporation, or any other person, that—

(A) arises under any provision of law referred to in section 104(d)(2); and

(B) existed on the day before the designated transfer date.

(2) CONTINUATION OF SUITS.—This Act shall not abate any proceeding commenced by or against the Federal Deposit Insurance Corporation or the Board of Directors of that Corporation with respect to any function transferred to the Commission, except that the Commission shall be substituted for the Corporation or Board of Directors, as the case may be, as a party to any such proceeding as of the designated transfer date.

(e) CONTINUATION OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS.—All orders, resolutions, determinations, and regulations, which have been issued, made, prescribed, or allowed to become effective by the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation (including orders, resolutions, determinations, and regulations that relate to the conduct of conservatorships and receiverships), or by a court of competent jurisdiction, in the performance of functions that are transferred by this Act and that are in effect on the designated transfer date, shall continue in effect according to the terms of those orders, resolutions, determinations, and regulations and shall be enforceable by or against the Federal Banking Commission until modified, terminated, set aside, or superseded in accordance with applicable law by the Commission, by any court of competent jurisdiction, or by operation of law.

SEC. 204. REFERENCES IN FEDERAL LAW TO FEDERAL BANKING AGENCIES.

(a) COMPTROLLER OF THE CURRENCY AND DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.—Any reference in any Federal law to the Comptroller of the Currency, the Office of the Comptroller of the Currency, the Director of the Office of Thrift Supervision, or the Office of Thrift Supervision shall be deemed to be a reference to the Federal Banking Commission.

(b) BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.—Any reference in any Federal law to the Board of Governors of the Federal Reserve System in connection with any function of the Board of Governors under any provision of law referred to in section 104(c)(2) shall be deemed to be a reference to the Federal Banking Commission.

(c) FEDERAL DEPOSIT INSURANCE CORPORATION.—Any reference in any Federal law to the Federal Deposit Insurance Corporation or the Board of Directors of such Corporation in connection with any function of the Corporation or Board of Directors under any provision of law referred to in section 104(d)(2) shall be deemed to be a reference to the Federal Banking Commission.

SEC. 205. DISPOSITION OF AFFAIRS.

(a) IN GENERAL.—During the 90-day period beginning on the designated transfer date, the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Director of the Office of Thrift Supervision—

(1) shall, solely for the purpose of winding up the affairs of their respective agencies related to any functions transferred to the Commission under this Act—

(A) manage the employees of those agencies and provide for the payment of the compensation and benefits of any such employee which accrue before the designated transfer date; and

(B) manage any property of those agencies until the property is transferred under section 209; and

(2) may take any other action necessary to wind up the affairs of their respective agencies relating to the transferred functions.

(b) AUTHORITY AND STATUS OF EXECUTIVES.—

(1) IN GENERAL.—Notwithstanding the transfers of functions under this Act, the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Director of the Office of Thrift Supervision shall, during the 90-day period beginning on the designated transfer date, have any authority vested in those persons before that date that is necessary to carry out the requirements of this Act during that period.

(2) OTHER PROVISIONS.—For purposes of paragraph (1), the Comptroller of the Currency and the Director of the Office of Thrift Supervision shall continue—

(A) to be treated as officers of the United States during the 90-day period referred to in paragraph (1); and

(B) to be entitled to receive compensation during that period at the same annual rate of basic pay that they were receiving before the designated transfer date.

SEC. 206. STATUS OF EMPLOYEES.

(a) STATUS OF EMPLOYEES BEFORE TRANSFER.—The transfer of functions under this Act and the abolition of the Office of the Comptroller of the Currency and the Office of Thrift Supervision shall not be construed as affecting the status of those agencies' employees as employees of an agency of the United States for purposes of any other provision of law.

(b) CONTINUATION OF SERVICES.—

(1) USE OF EMPLOYEES AND PROPERTY.—The Commission may use the services of employees and other personnel and the property of the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation, on a reimbursable basis, to perform functions that have been transferred from those agencies for such time as is reasonable to facilitate the orderly transfer of functions under this Act.

(2) AGENCY SERVICES.—Any agency, department, or other instrumentality of the United States, and any successor to any such agency, department, or instrumentality, that was providing supporting services to the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation, before the designated transfer date shall, in connection with those transfers to the Commission—

(A) continue to provide those services, on a reimbursable basis, until the transfer of those functions is complete; and

(B) consult with any such agency to coordinate and facilitate a prompt and orderly transition.

(c) TRANSFER OF EMPLOYEES.—Employees of the Office of the Comptroller of the Currency and the Office of Thrift Supervision, and employees of the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation engaged in performing functions transferred to the Commission on the designated transfer date, shall be transferred to the Commission.

(d) RIGHTS OF EMPLOYEES.—Employees transferred under subsection (c) shall have the following rights:

(1) TRANSFER.—Each employee shall be transferred to the Commission for employment not later than 90 days after the designated transfer date, and the transfer shall be deemed a transfer of function for the purpose of section 3503 of title 5, United States Code.

(2) EQUAL POSITION.—Each transferred employee shall be guaranteed a position with not less than the same status, tenure, and pay as that held December 31, 1992.

(3) 1-YEAR PRESERVATION OF PERMANENT POSITIONS.—No employee holding a permanent position shall be involuntarily separated or reduced in grade or compensation for 1 year after the date of transfer, except for cause.

(4) SPECIAL APPOINTMENT AUTHORITY.—In the case of employees occupying positions in the excepted service or the Senior Executive Service, any appointment authority established pursuant to law or regulations of the Office of Personnel Management for filling such positions shall be transferred.

(5) WORK FORCE REORGANIZATION.—If the Commission determines, after the end of the 1-year period beginning on the designated transfer date, that a reorganization of the combined work force is required, that reorganization shall be deemed a "major reorganization" for purposes of affording affected employees retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.

(6) EMPLOYEE BENEFIT PROGRAMS.—Any employee transferred to the Commission may retain for 1 year after the date the transfer occurs membership in any employee benefit program of the transferring agency, including insurance, to which the employee belongs on the designated transfer date if—

(A) the employee does not elect to give up the benefit or membership in the program; and

(B) the benefit or program is continued by the Commission.

The Commission shall pay the difference in the costs between the benefits which would have been provided by the agency or entity and those provided by this section. If any employee elects to give up membership in a health insurance program or the Commission does not continue the health insurance program, the employee shall be permitted to select an alternate Federal health insurance program not later than 30 days after the election or notice, without regard to any regularly scheduled open season.

(7) SENIOR EXECUTIVE SERVICE EMPLOYEES.—A transferring employee in the Senior Executive Service shall be placed in a comparable position at the agency or entity to which the employee is transferred.

(8) NOTICE OF POSITION ASSIGNMENTS.—Transferring employees shall receive notice of their position assignments not later than 120 days after the effective date of their transfer.

SEC. 207. TRANSFER OF PROPERTY.

(a) IN GENERAL.—Not later than the end of the 90-day period beginning on the designated transfer date—

(1) the property of the Office of the Comptroller of the Currency and the Office of Thrift Supervision shall be transferred to the Commission; and

(2) any property of the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation used in performing functions of those agencies transferred to the Commission under this Act shall be transferred to the Commission.

(b) PRESERVATION OF PROPERTY.—Property transferred under this section shall not be altered, destroyed, or deleted before transfer under this section.

(c) PROPERTY DEFINED.—For purposes of this section, the term "property" includes all real property, books, accounts, records, reports, files, memoranda, paper, reports of examination, work papers and correspondence related to such reports, and any other information or materials of the agencies specified in subsection (a) on the designated transfer date.

(d) ADMINISTRATIVE PROVISION.—For purposes of this section, the Board of Governors of the Federal Reserve System and the Board of Directors of the Federal Deposit Insurance Corporation shall determine what property is used in performing functions to be transferred under this Act.

SEC. 208. CONFORMING CHANGES IN FEDERAL DEPOSIT INSURANCE CORPORATION BOARD OF DIRECTORS.

(a) IN GENERAL.—Subparagraphs (A) and (B) of section 2(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1812(a)(1)) are amended to read as follows:

"(A) 1 of whom is the Secretary of the Treasury (or the Secretary's designee);

"(B) 1 of whom is the Chairperson of the Federal Banking Commission; and".

(b) VACANCY.—Section 2(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1812(d)(2)) is amended to read as follows:

"(2) ACTING OFFICIAL MAY SERVE.—

"(A) SECRETARY OF THE TREASURY.—In the event of a vacancy in the position of the Secretary of the Treasury or during the absence or disability of the Secretary of the Treasury, the acting Secretary or the acting Secretary's designee shall serve as a member of the Board of Directors.

"(B) CHAIRPERSON OF THE FEDERAL BANKING COMMISSION.—In the event of a vacancy in the position of Chairperson of the Federal Banking Commission or during the absence or disability of the Chairperson, the acting Chairperson shall serve as a member of the Board of Directors.".

SEC. 209. COMPTROLLER'S CURRENCY-RELATED FUNCTIONS REPEALED.

(a) OBSOLETE CURRENCY PROVISIONS REPEALED.—

(1) REPEAL OF REVISED STATUTES PROVISIONS.—The following sections of the Revised Statutes are repealed:

(A) Section 5203 (12 U.S.C. 87).
(B) Section 5206 (12 U.S.C. 88).
(C) Section 5196 (12 U.S.C. 89).
(D) Section 5158 (12 U.S.C. 102).
(E) Section 5159 (12 U.S.C. 101a).
(F) Section 5172 (12 U.S.C. 104).
(G) Section 5173 (12 U.S.C. 107).
(H) Section 5174 (12 U.S.C. 108).
(I) Section 5182 (12 U.S.C. 109).
(J) Section 5183 (12 U.S.C. 110).
(K) Section 5195 (12 U.S.C. 123).
(L) Section 5184 (12 U.S.C. 124).
(M) Section 5226 (12 U.S.C. 131).
(N) Section 5227 (12 U.S.C. 132).
(O) Section 5228 (12 U.S.C. 133).
(P) Section 5229 (12 U.S.C. 134).
(Q) Section 5230 (12 U.S.C. 137).
(R) Section 5231 (12 U.S.C. 138).
(S) Section 5232 (12 U.S.C. 135).
(T) Section 5233 (12 U.S.C. 136).
(U) Section 5185 (12 U.S.C. 151).
(V) Section 5186 (12 U.S.C. 152).
(W) Section 5160 (12 U.S.C. 168).
(X) Section 5161 (12 U.S.C. 169).
(Y) Section 5162 (12 U.S.C. 170).
(Z) Section 5163 (12 U.S.C. 171).
(AA) Section 5164 (12 U.S.C. 172).
(BB) Section 5165 (12 U.S.C. 173).
(CC) Section 5166 (12 U.S.C. 174).
(DD) Section 5167 (12 U.S.C. 175).
(EE) Section 5222 (12 U.S.C. 183).
(FF) Section 5223 (12 U.S.C. 184).
(GG) Section 5224 (12 U.S.C. 185).
(HH) Section 5225 (12 U.S.C. 186).
(II) Section 5237 (12 U.S.C. 195).

(2) CURRENCY PROVISIONS IN OTHER STATUTES REPEALED.—The following provisions of law are repealed:

(A) Section 12 of the Act entitled "An Act to define and fix the standard of value, to maintain the parity of all forms of money issued or coined by the United States, to refund the public debt, and for other purposes.", and approved March 14, 1900 (12 U.S.C. 101).

(B) Section 3 of the Act entitled "An Act to amend the laws relating to the denominations, and notes by national banks and to permit the issuance of notes of small denominations, and for other purposes." and approved October 5, 1917 (12 U.S.C. 103).

(C) The following sections of the Act entitled "An Act fixing the amount of United States notes, providing for a redistribution of the national-bank currency, and for other purposes." and approved June 20, 1874:

(1) Section 5 (12 U.S.C. 105).

(ii) Section 3 (12 U.S.C. 121).

(iii) Section 8 (12 U.S.C. 126).

(iv) Section 4 (12 U.S.C. 176).

(D) The following sections of the Act entitled "An Act to enable national-banking associations to extend their corporate existence, and for other purposes." and approved July 12, 1882:

(i) Section 8 (12 U.S.C. 177).

(ii) Section 9 (12 U.S.C. 178).

(3) OTHER STATUTES REPEALED.—

(A) The Act entitled "An Act to amend the National Bank Act in providing for redemption of national bank notes stolen from or lost by banks of issue." and approved July 28, 1892 (12 U.S.C. 125) is repealed.

(B) The Act entitled "An Act authorizing the conversion of national gold banks." and approved February 14, 1880 (12 U.S.C. 153) is repealed.

(b) FEDERAL RESERVE ACT AND OTHER LAWS AMENDED.—

(1) FEDERAL RESERVE ACT.—

(A) The 1st sentence of the 8th undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 418) is amended by striking "the Comptroller of the Currency shall, under the direction of the Secretary of the Treasury," and inserting "the Secretary of the Treasury shall".

(B) The 9th undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 419) is amended to read as follows: "When such notes have been prepared, the notes shall be delivered to the Board of Governors of the Federal Reserve System subject to the order of the Secretary of the Treasury for the delivery of such notes in accordance with this Act.".

(C) The 10th undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 420) is amended—

(i) by striking "Comptroller of the Currency" and inserting "Secretary of the Treasury"; and

(ii) by striking "Federal Reserve Board" and inserting "Board of Governors of the Federal Reserve System".

(D) The 11th undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 421) is amended to read as follows: "The Secretary of the Treasury may examine the plates, dies, bed pieces, and other material used in the printing of Federal Reserve notes and may issue regulations relating to such examinations.".

(2) OTHER LAWS.—

(A) The Act entitled "An Act to provide for the redemption of national-bank notes, Federal Reserve notes, and Federal Reserve notes which cannot be identified as to the bank of issue." and approved June 13, 1933, is amended—

(i) in the 1st section (12 U.S.C. 121a)—

(I) by striking "whenever any national-bank notes, Federal Reserve bank notes," and inserting "whenever any Federal Reserve bank notes"; and

(II) by striking ", and the notes, other than Federal Reserve notes, so redeemed shall be forwarded to the Comptroller of the Currency for cancellation and destruction"; and

(ii) in the 2d section (12 U.S.C. 122a)—

(I) by striking "National-bank notes and"; and

(II) by striking "national-bank notes and".

(B) The 1st section of the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and seventy-six, and for other purposes." and approved March 3, 1875 (12 U.S.C. 106), is amended in the first paragraph that appears under the heading "NATIONAL CURRENCY." by striking "Secretary of the Treasury: *Provided*, That" and all that follows through the period and inserting "Secretary of the Treasury.".

(C) The Act entitled "An Act to simplify the accounts of the Treasurer of the United States, and for other purposes." and approved October 10, 1940 (12 U.S.C. 177a) is amended by striking all after the enacting clause and inserting the following: "The cost of transporting and redeeming outstanding national bank notes and Federal Reserve bank notes as may be presented to the Treasurer of the United States for redemption shall be paid from the regular annual appropriation for the Department of the Treasury.".

(D) Section 5234 of the Revised Statutes (12 U.S.C. 192) is amended by striking "has refused to pay its circulating notes as therein mentioned, and".

(E) Section 5236 of the Revised Statutes (12 U.S.C. 194) is amended by striking ", after full provision has been first made for refunding to the United States any deficiency in redeeming the notes of such association,".

(F) Section 5238 of the Revised Statutes (12 U.S.C. 196) is amended by striking the first sentence.

(G) Section 5119(b)(2) of title 31, United States Code, is amended by adding at the end the following: "The Secretary shall not be required to reissue United States currency notes upon redemption.".

SEC. 210. FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL ABOLISHED.

(a) IN GENERAL.—The Federal Financial Institutions Examination Council is abolished.

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—The Federal Financial Institutions Examination Council Act of 1978 is amended by striking sections 1002, 1004, 1005, 1007, 1008, 1009, and 1009A.

(2) TRAINING.—Section 1006 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3305) is amended by striking subsections (a), (b), (c), (e), and (f).

(3) DEFINITION.—Section 1003 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3302) is amended—

(A) by inserting "and" at the end of paragraph (1);

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

(c) REDESIGNATION OF APPRAISAL SUBCOMMITTEE.—

(1) IN GENERAL.—The Appraisal Subcommittee established by section 1011 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3310) shall be redesignated the "Appraisal Committee".

(2) AMENDMENT TO SECTION 1011.—The first sentence of section 1011 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3310) is amended to read as follows: "There shall be a committee to be known as the 'Appraisal Committee', which shall consist of the designees of the Chairperson of the Federal Banking Commission, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairman of the National Credit Union Administration Board.".

(3) AMENDMENT TO SECTION HEADING.—The heading of section 1011 of the Federal Financial Institutions Examination Council Act of 1978 is amended to read as follows:

"SEC. 1011. ESTABLISHMENT OF APPRAISAL COMMITTEE.".

(d) REFERENCES IN OTHER LAW.—Any reference in any Federal law to the Federal Financial Institutions Examination Council shall be deemed to be a reference to the Commission.

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the designated transfer date.

REGULATORY CONSOLIDATION ACT OF 1993

The Act would establish a 5-member Federal Banking Commission, consisting of:

The Secretary of the Treasury (or the Secretary's designee);

A member of the Federal Reserve Board, chosen by the Board; and

Three commissioners appointed for staggered 6-year terms.

The Commission—an independent agency—would supervise and regulate all FDIC-insured depository institutions and their holding companies and other affiliates.

The Commission would thus have all the depository institution regulatory functions currently exercised by:

The Comptroller of the Currency (national banks);

The Federal Reserve Board (bank holding companies and State member banks);

The FDIC (State nonmember banks); and

The Director of the Office of Thrift Supervision (thrifts and thrift holding companies).

The FDIC would, as deposit insurer, retain its existing back-up enforcement authority.

The consolidation of regulatory functions occur on a date set by the Secretary of the Treasury. The goal would be to achieve consolidation within 10 months after the bill becomes law, but the Secretary would have discretion to allow an additional 5 months.

To facilitate a timely and orderly consolidation, the Act would urge the President to nominate the initial group of appointed commissioners at least 3 months before the consolidation date, and urge the Senate Banking Committee to act on those nominations at least 45 days before the date.

The President would, subject to Senate confirmation, designate one of the 3 appointed commissioners as Chairperson and the other as Vice Chairperson.

The bill would not specifically require that the Federal Banking Commission have a separate Consumer Division or that one of the commissioners have a consumer-advocacy background.

The Secretary of the Treasury (or the Secretary's designee) and the Chairperson of the Federal Banking Commission would sit on the FDIC's 5-member Board of Directors, in place of the Comptroller of the Currency and the Director of the Office of Thrift Supervision.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC, November 8, 1993.

Hon. WILLIAM J. CLINTON,
President of the United States,
White House, Washington, DC.

DEAR MR. PRESIDENT: In the preface to the "Report of the National Performance Review" you and the Vice-President state: "It is time to radically change the way government operates." We agree.

Let us state as clearly as we can that we strongly believe that the time is now for the full consolidation of the supervisory and regulatory responsibilities of the four bank and thrift regulatory agencies—the Comptroller of the Currency, the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision—into a single, independent Federal Banking Commission.

The current system is costly, burdensome, inefficient, archaic and must be re-engineered and modernized. We believe this issue must be addressed immediately and call

upon you to exert bold leadership in this area as part of the Administration's ongoing effort to reinvent government.

Reforming our bank and financial regulatory bureaucracy is long overdue. Now is the time to address this issue head on. Banks and thrifts are posting record profits, and both the Congress and the Administration are committed to cost saving, deficit reduction, and a more efficient government.

Consolidation of the regulatory agencies is not a new idea. Virtually every independent study of our federal bank regulatory system since 1949 has recognized the need for major consolidation. Consolidation has been advocated by, among others, The Hoover Commission, the Hunt Commission, the FINE Study, the Grace Commission, the Task Group on Regulation of Financial Services, and the recently completed National Commission on Financial Institution Reform, Recovery, and Enforcement.

Most recently, on September 14, 1993, the Senate Banking Committee received testimony from a bi-partisan group of six former financial agency regulators. The witnesses were unanimous and unequivocal that major consolidation would benefit consumers; benefit industry; and improve the safety and soundness of the financial services industry. For the banking industry, consolidation holds the promise of reduced examination fees and an end to duplicative examinations and conflicting regulations. For the general public, regulatory consolidation means a more accountable, more responsive bank regulatory system. And for the American economy, regulatory consideration means a more vital, more competitive banking system.

We believe that a streamlined regulatory system will allow America's banks to put more effort into productive business activities and less into coping with their regulators. We also believe that the consolidation and streamlining of our supervisory and regulatory system into a single Federal Banking Commission will do much to reduce the paperwork burden facing the industry while at the same time increasing the safety and soundness of the system.

Mr. President, full consolidation of the supervisory and regulatory responsibilities of all four of our bank and thrift regulatory agencies is a top priority for us in this Congress. We look forward to working closely with you and your Administration on this issue. Given the similarity of approaches contained in the bills we have introduced in the House and Senate, we urge your administration to seize this unique and historic opportunity to fundamentally improve the way our bank and thrift regulatory agencies operate and to reinvent and re-engineer this area of our government in a major, meaningful way.

Sincerely,

HENRY B. GONZALEZ,
Chairman,
House Banking Committee.

ALFONSE M. D'AMATO,
Ranking Member,
Senate Banking Committee.

DONALD W. RIEGLE, JR.,
Chairman,
Senate Banking Committee.•

• Mr. D'AMATO. Mr. President, I am pleased to join Senator RIEGLE, the distinguished chairman of the Senate Committee on Banking, Housing, and Urban Affairs, in introducing the Regulatory Consolidation Act of 1993. Before explaining the importance and purpose of the legislation, I want to acknowledge his determination and outstanding leadership in formulating a bipartisan and coherent legislative approach to modernizing and rationalizing the regulation of financial institutions.

Mr. President, the bill we are introducing today would consolidate into a single, independent Federal Bank Commission the supervisory and regulatory functions currently scattered among the Comptroller of the Currency, the Federal Reserve Board, the Federal Deposit Insurance Corporation and the Office of Thrift Supervision. The Federal Bank Commission would assume the regulatory and supervisory functions of the Comptroller of the Currency over national banks; the Federal Reserve Board over bank holding companies and State-chartered banks that belong to the Federal Reserve System; the Fed with respect to other State-chartered banks; and the Office of Thrift Supervision concerning savings associations and their holding companies. The FDIC would retain back-up enforcement authority in its capacity as insurer. The Fed would continue its historical and critical roles as central bank and lender of last resort. The bill would not address or change the present regulation and insurance of credit unions.

Mr. President, several weeks ago amidst great fanfare the administration released the "National Performance Review" containing many recommendations for reinventing Government. The report proposes to streamline, decentralize, reorient and even eliminate agencies and programs in order to create a more responsive, effective and efficient Government. But the report conspicuously avoids any attempt to achieve these laudable goals in the context of the bank regulatory structure. This must be an oversight or a subject still under review within the administration because it has been proposed—but not accomplished—byindependent commissions, think tanks and prominent experts since the late 1930's.

Mr. President, the Regulatory Consolidation Act of 1993 would, in the words of Vice President GORE, move our bank regulatory system from "red-tape to results * * *". With the administration's support, and building upon the bipartisan enthusiasm for consolidation in the House and Senate, an independent Federal Bank Commission can be established in this Congress. I urge the administration witnesses to support the bill when they testify before the committee later this month.

Mr. President, the regulatory system for depository institutions has developed more by accident than by design. Bank executives have expressed frustration over what they have called a "revolving door of examiners." And among the most notable causes of the credit crunch is the burdensome, confusing, and costly regulation that has resulted from the present labyrinthine framework of overlapping and uncoordinated examinations, duplicative reports, and differing and inconsistent interpretations. The current system of regulation is archaic, cumbersome, costly and confusing to both the regulated and the regulators.

Mr. President, I want to emphasize that this legislation addresses only regulatory structure and not the substance of the regulation. The committee recognizes the need to update bank and thrift regulation, mitigate the unintended or unnecessary consequences of particular regulations, and increase the ability of banks and thrifts to make money and credit available to the economy. In the near future, the Senate will consider S. 1275, the "Community Development, Credit Enhancement, and Regulatory Improvement Act of 1993" to address these concerns. The purpose of this bill is to recognize and consolidate the four regulatory agencies into a Federal Bank Commission, and it is entirely consistent with the committee's overall approach to simplifying and streamlining regulation while strengthening the banking system. Mr. President, Chairman RIEGLE and I intend to make regulatory consolidation a priority for our committee. I have pledged to fully support and cooperate in this effort. We are both committed to the passage of legislation by the end of this Congress. Although this is an ambitious goal, especially in light of the fate of similar efforts in the past, I urge my colleagues to capitalize on this opportunity to reinvent and reorganize the bank regulatory structure.

Mr. President, I congratulate the chairman again for offering an excellent way to reduce overregulation and streamline the regulatory structure for depository institutions. Enacting this legislation will provide for significant paperwork reduction, regulatory burden relief and contribute to economic growth while increasing the safety and soundness of the financial system. I urge our colleagues to join us in achieving a comprehensible system of regulation for depository institutions.•

By Mr. HEFLIN:

S. 1634. A bill to authorize each State and certain political subdivisions of States to control the movement of municipal solid waste generated within, or imported into, the State or political subdivisions of the State, and for other purposes; to the Committee on Environment and Public Works.

MUNICIPAL SOLID WASTE FLOW CONTROL ACT OF 1993

Mr. HEFLIN. Mr. President, I rise today to introduce the Municipal Solid Waste Flow Control Act of 1993. I am introducing this legislation because I believe it essential that Congress speak on the question of how our States and their attendant political subdivisions

plan for and manage the disposition of municipal solid waste generated within their borders.

The Congress, in RCRA, placed mandates on local communities to plan for and manage their municipal solid waste on a long-term basis. Much has been said in recent days about Federal mandates on our Governors and mayors and the costs of implementing these Federal regulations. In the area of municipal solid waste management, it is essential that the Congress reaffirm that our State and local communities have the power to carry out these federally imposed planning mandates. These entities should be able not only to plan for municipal solid waste management but also to build and operate the necessary infrastructure, in public or private partnership, to deal with solid waste.

The need for this legislation is occasioned by a confused legal landscape. While local flow control has been exercised for over 100 years, there is a recent line of Federal court cases which question this right on commerce clause grounds.

While our Federal circuits are currently divided on the applicability of the commerce clause, they are agreed upon one important fact: That the U.S. Congress has never explicitly granted flow control authority to the States. If the Congress states clearly what has always been an assumed local power, the principal legal arguments overflow control will be resolved.

The bill I introduce today does precisely this. It will reaffirm the principle that States and local governments should assume responsibility for the municipal waste that they generate. It will give local governments the power to manage this waste in an environmentally responsible manner. It will protect the property rights of individuals and organizations who have separated recyclable materials from the waste stream. The legislation will protect the investments that communities have made in solid waste infrastructure already or that they need to make to provide for future disposal capacity. Bondholders will be protected. This legislation will also have the result of discouraging wholesale interstate transportation of garbage because it will encourage local communities to plan for and manage their own solid waste.

I would like to note that legal challenges to flow control are pending in 24 States including the State of Alabama. In southeastern Alabama, 4 counties joined together to form the Southeast Alabama Solid Waste Authority to plan for and design waste disposal capacity and recycling for some 32 cities and towns in the 4-county region. The project is to consist of a regional disposal facility and three waste transfer stations financed by revenue bonds. Revenues from tipping fees are tosupport this regional effort and flow control ordinances are to guarantee a flow of solid waste sufficient to finance the integrated waste disposal plan without impacting the tax base of the involved communities. A firm wishing to transport trash to a competing landfill filed suit recently against the flow control ordinance and the ordinance has been struck down in Federal District Court, pending appeal.

This situation is not dissimilar in its fundamental aspects from what is happening across this country. Private parties are challenging the waste management plans of communities across the United States, using the commerce clause argument. In many cases, these challenges are succeeding. The result is that local responsibility for municipal solid waste planning and disposal is disintegrating from a predictable, workable system into unknown and, I believe, dangerous territory. Simply put, communities cannot be required to plan for the disposal of solid waste if they cannot control the destination of the very same waste that is generated within their jurisdiction. And yet, RCRA requires them to do just this for good reasons of environmental policy. If we in Congress expect local communities to continue to carry out this vital responsibility for public health and safety, we are going to have to step up to the plate and clarify to the satisfaction of the courts that we mean for communities to have this legal authority.

It would be a mistake for us to await definitive action on this question by the Federal judiciary. Every flow control challenge has its own particular facts and circumstances and courts are deciding these cases differently in different jurisdictions. It is highly unlikely in my view that the Supreme Court will definitively decide this issue in the Carbone case. What is really needed is for Congress to come forward and clarify the broad outlines of permissible flow control authority. If we do this, we will prevent our existing systems of solid waste collection and management from collapsing as they are in danger of doing today.

I urge my colleagues to give this matter their serious attention and to pass legislation that clearly outlines the circumstances under which State and local communities can exercise flow control for public health and sanitation requirements. Obviously, different communities will choose to exercise these powers in different ways but this is nothing to fear. It is a continuation of the tradition of local control and responsibility.

By Mr. MACK:

S. 1635. A bill to authorize a certificate of documentation for certain vessels; to the Committee on Commerce, Science, and Transportation.

WAIVERS TO THE JONES ACT

• Mr. MACK. Mr. President, the Commerce Subcommittee on Merchant Marine has been working on legislation to phase out bare boat charters. Currently, the law provides an exception under a bare boat provision which allows foreign built vessels to operate as de facto passenger charters. They do so without meeting the same criteria required of Coast Guard certified charter vessels.

Over the years an industry has developed and substantial investments have been made by the owners of these vessels. They have made economic decisions based upon exceptions which the law provides. However, as that law is now being changed, as a matter of equity, the owners of these vessels should be granted waivers to the Jones Act.

I don't believe it's fair to change the rules of the game for our business men and women and take away their jobs and their way of life because we in the Congress have decided to change the law.

The Bare Boat Association has provided the committee a list of five of their vessels which need Jones Act waivers. As it is my understanding the committee has cleared these vessels, I am introducing this legislation on the association's behalf.•

By Mr. KERRY (for himself, Mr. STEVENS and Mr. PACKWOOD):

S. 1636. A bill to authorize appropriations for the Marine Mammal Protection Act of 1972 and to improve the program to reduce the incidental taking of marine mammals during the course of commercial fishing operations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MARINE MAMMAL PROTECTION ACT AMENDMENTS OF 1993

• Mr. KERRY. Mr. President, today I rise before the Senate along with my colleagues, Senators STEVENS and PACKWOOD, to introduce the Marine Mammal Protection Act Amendments of 1993, S. 1636.

Mr. President, the Committee on Commerce, Science, and Transportation held two hearings on the reauthorization of the Marine Mammal Protection Act this year. At the first hearing, the committee received testimony on the issue of interactions between marine mammals and commercial fishing operations. At the second hearing, the committee received testimony on the issue of public display and scientific research. Because proposed regulations for managing captive marine mammals were only recently made available, the legislation we are introducing today addresses only the interaction between commercial fishermen and marine mammals. Changes to the MMPA to address public display issues will be considered at a later date.

The purposes of the legislation I am introducing today are to: First, extend

the authorization of appropriations for 5 years; and second, establish a new regime governing the incidental taking of marine mammals in commercial fishing operations.

The MMPA establishes a comprehensive Federal program to conserve marine mammals to the central feature of which program is a moratorium on the taking of all marine mammals by persons subject to U.S. jurisdiction. This protection prohibits harassment of animals, as well as the hunting or capturing of them. In addition, imports of marine mammals or marine mammal products into the United States are banned.

The moratorium on the taking or importation of marine mammals may be waived for the incidental taking of marine mammals in the course of commercial fishing operations.

General permits and small-take exceptions were issued to U.S. fishermen in 1983, for a period of 5 years. In July 1986, the Federation of Japan Salmon Fisheries Cooperative Association applied for a 5-year general permit to allow the incidental taking of Dall's porpoise, northern fur seals, and sea lions in the course of its Bering Sea salmon drift net fishery. The National Oceanic and Atmospheric Administration [NOAA] issued a permit allowing the take of Dall's porpoise, but denied one for northern fur seals and sea lions because adequate information was unavailable to assess the status of those populations. NOAA believed that it had discretion under the MMPA to authorize the taking of Dall's porpoise, which were at the optimum sustainable population [OSP] level, even though some other species would be taken occasionally as well.

After the issuance of this general permit, lawsuits to enjoin the permit were filed by the Kokechik FisheriesAssociation. On June 15, 1987, the U.S. District Court for the District of Columbia ruled that issuance of the permit violated the MMPA. The court's decision, Kokechik Fishermen's Association versus Secretary of Commerce, held that NOAA could not issue the permit to take Dall's porpoise if it were likely that northern fur seals also would be taken because the act prohibits the issuance of a permit and any taking of a population that is below its OSP level. The decision affected NOAA's discretion to issue or renew general permits to U.S. fishermen for the incidental taking of small numbers of marine mammals from depleted populations or from those for which the status is uncertain.

The 1988 MMPA authorization legislation addressed the Kokechik decision and provided for the issuance of a new 5-year interim exemption for commercial fisheries. The provision implemented a negotiated agreement between commercial fishing operations and conservation groups, exempting most commercial fishing operations from the permit requirements of the act. The 5-year exemption allowed the nonintentional killing of marine mammals during fishing operations and required fishermen to carry observers and collect better scientific data on populations of marine mammals and the interactions between marine mammals and fisheries. This statutory exemption would expired on October 1, 1993. However, Congress recently passed legislation (Public Law 103-86) extending the exemption for an additional 6 months, until April 1, 1994.

Mr. President, this bill would extend the authorization of appropriations through fiscal year 1998 for the Department of Commerce, Department of Interior, and the Marine Mammal Commission. DOC would receive $21,636,000 for fiscal year 1994, DOI would receive $8,000,000 for fiscal year 1994, and the Marine Mammal Commission would receive $1,350,000 for fiscal year 1994. Funding levels have been adjusted for inflation in the outyears. With respect to fishery interactions, the primary focus of the legislation is to establish criteria for identifying and prioritizing marine mammal stocks most affected by interactions with commercial fishing operations. Emphasis is placed on the need for immediate action to protect those stocks in decline or at low population levels. In addition, the intentional killing of marine mammals by commercial fishermen is prohibited.

Specifically, the bill first, would require the Secretary of Commerce to prepare and issue a stock assessment for each marine mammal stock. The stock would be designated into 1 of 5 categories ranked in priority based on population trend, size, and level of total lethal take. All stock assessments would be issued within 240 days after the date of enactment, with a final stock assessment published 90 days after the end of the public comment period.

Second, the interim exemption—section 114—would remain in place until the regulations prescribed in the new section 118 take effect.

Third, the Secretary would be required to establish an incidental take team of knowledgeable and experienced individuals to develop an incidental take plan recommending measures for assisting a stock to recover. If the incidental take team cannot reach agreement and submit a draft plan within 6 months, then the Secretary would be required to publish a proposed plan and implementing regulations for public review within two additional months. Emergency regulations could be prescribed prior to final publication upon a Secretarial finding that incidental taking is having an immediate and significant adverse impact on a stock. The incidental take plan for a critical stock would include a review and evaluation of the information gathered in the stock assessment, and proposed management measures to reduce takings by commercial fisheries based proportionately on their contribution to the problem.

Fourth, the Secretary of Commerce would be authorized to develop a vessel registration system to assess fishery effort. The Secretary may establish such a registration system only if no other Federal, State, or tribal registration system exists. Any fees charged for a registration decal would not be permitted to exceed administration costs incurred in issuing the decal. Appropriated funds would be used to cover any costs of maintaining a separate registration system. Only those vessels that fish in a fishery with frequent or occasional takes could be included within a registration system.

Fifth, all incidental lethal and serious injury takes would be reported at the end of each fishing trip on a standard form, and failure to report would be subject to civil penalties.

Sixth, the Secretary of Commerce would be authorized to implement a vessel observer program, and require vessels to carry observers to the extent they can be safely accommodated. Highest priority in assigning observers would be given to those fisheries that take stocks designated as depleted or critical. Cost of monitoring would be covered by appropriations.

Seventh, establishment of an incidental take team would be mandated within 60 says of enactment to begin work immediately on a draft incidental take plan to assist the Alaska harbor seals and the Gulf of Maine harbor porpoises which are know critical stocks toward recovery.

In closing, I would like to comment on the efforts of the fishing community, conservation groups, and the administration. The task at hand has not been an easy one, and I recognize that as in all compromises, no one is completely satisfied by this legislative solution. However, I think we are all in agreement that we must move steadily toward reducing the injury of marine mammals during commercial fishing operations. At the same time we must strike a balance that does not put our commercial fishermen out of business. This legislation is the result of many months of negotiations by the interested parties. Our efforts would not have been as successful, without their cooperation and hard work.

Mr. President, I request that the bill be printed in the RECORD in its entirety.

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

S. 1636

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 "Marine Mammal Protection Act Amendments of 1993".

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) authorize appropriations to carry out the Marine Mammal Protection Act of 1972 for the fiscal years 1994 through 1998;

(2) ensure that the incidental take of marine mammals in any fishery, by itself and in combination with other human activities, does not cause any species or stock of marine mammals to be reduced to or maintained at, for significant periods of time, a level that is below the lower limit of its optimum sustainable population range;

(3) avoid restrictions on fishing operations when such restrictions are not necessary to meet the purpose described in paragraph (2);

(4) prohibit intentional lethal taking during commercial fishing, except as authorized through a waiver under section 101(a)(3) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(3));

(5) focus efforts on identifying and addressing the most significant problems involving fishery-marine mammal interactions, considering both the status of the affected marine mammal stocks and the numbers of marine mammals that are taken incidentally in each fishery;

(6) streamline the procedure for authorizing the incidental taking of marine mammals in commercial fisheries, consistent with the long-term objective of identifying and taking such steps as may be practicable to reduce mortality and serious injury incidental to commercial fishing operations to insignificant levels approaching zero; and

(7) develop a cost-effective program for reliably monitoring (A) the levels of incidental take of marine mammals in commercial fisheries and (B) the size and current population trends of the affected marine mammal stocks.

SEC. 3 AUTHORIZATION OF APPROPRIATIONS.

(a) COMMERCE DEPARTMENT.—Section 7(a) of the Act entitled "An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes", approved October 9, 1981 (16 U.S.C. 1384(a)), is amended to read as follows:

"(a) DEPARTMENT OF COMMERCE.—There are authorized to be appropriated to the Department of Commerce, for purposes of carrying out such functions and responsibilities as it may have been given under title I of the Marine Mammal Protection Act of 1972, $21,636,000 for fiscal year 1994, $22,502,000 for fiscal year 1995, $23,402,000 for fiscal year 1996, $24,338,000 for fiscal year 1997, and $25,311,000 for fiscal year 1998.".

(b) INTERIOR DEPARTMENT.—Section 7(b) of the Act entitled "An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes", approved October 9, 1981 (16 U.S.C. 1384(b)), is amended to read as follows:

"(b) DEPARTMENT OF INTERIOR.—There are authorized to be appropriated to the Department of Interior, for purposes of carrying out such functions and responsibilities as it may have been given under title I of the Marine Mammal Protection Act of 1972, $8,000,000 for fiscal year 1994, $8,600,000 for fiscal year 1995, $9,000,000 for fiscal year 1996, $9,400,000 for fiscal year 1997, and $9,900,000 for fiscal year 1998.".

(c) MARINE MAMMAL COMMISSION.—Section 7(c) of the Act entitled "An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes", approved October 9, 1981 (16 U.S.C. 1407), is amended to read as follows:

"(c) MARINE MAMMAL COMMISSION.—There are authorized to be appropriated to the Marine Mammal Commission, for purposes of carrying out such functions and responsibilities as it may have been given under title II of the Marine Mammal Protection Act of 1972, $1,350,000 for fiscal year 1994, $1,400,000 for fiscal year 1995, $1,450,000 for fiscal year 1996, $1,500,000 for fiscal year 1997, and $1,550,000 for fiscal year 1998.".

SEC. 4. INCIDENTAL TAKING OF ENDANGERED AND THREATENED SPECIES.

(a) IN GENERAL.—Section 101(a)(4) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(4)) is amended to read as follows:

"(4)(A) The Secretary may allow the incidental, but not the intentional, taking, by citizens of the United States while engaging in commercial fishing operations, of marine mammals from a species or stock designated under this Act as depleted because of its listing as an endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) if the Secretary, after notice and opportunity for public comment, determines that such taking is pursuant to a statement issued by the Secretary for such taking under section 7 of such Act (16 U.S.C. 1536).

"(B) Section 103 and 104 shall not apply to the taking of marine mammals under the authority of this paragraph.".

(b) CONFORMING AMENDMENT.—Section 7(b)(4)(C) of the Endangered Species Act of 1973 (16 U.S.C. 1536(b)(4)(C)) is amended by inserting "101(a)(4) or" immediately before "101(a)(5)" each place it appears.

SEC. 5. CONSERVATION PLANS.

Section 115(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1383b(b)) is amended by adding at the end the following new paragraph:

"(4) If the Secretary determines that an incidental taking plan is necessary to reduce the incidental taking of marine mammals in the course of commercial fishing operations from a stock identified as a critical stock under section 118(c), any conservation plan required under this subsection for such stock shall only address non-incidental takings.".

SEC. 6. TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS.

Title I of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371 et seq.) is amended by adding at the end the following new section:

"SEC. 118. TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS.

"(a) IN GENERAL.—(1) Except as provided in section 114 and in paragraphs (2), (3), and (4) of this section, and notwithstanding section 101, the provisions of this section shall govern the incidental taking of marine mammals in the course of commercial fishing operations by persons using vessels of the United States or vessels which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)). The Secretary shall develop and implement incidental taking plans under this section to reduce the incidental lethal taking of marine mammals, from stocks listed as critical stocks under subsection (c), to a level below the calculated acceptable removal level.

"(2) Section 101(a)(4), and not this section, shall govern the incidental taking of marine mammals from species or stocks designated under this Act as depleted on the basis of their listing as threatened or endangered species under the Endangered Species Act of 1973.

"(3) Sections 104(h) and 306, and not this section, shall govern the taking of marine mammals in the course of commercial purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean.

"(4) This section shall not govern the taking of marine mammals from an experimental population of California sea otters to which the Act of November 7, 1986 (Public Law 99-625); 100 Stat. 3500) applies.

"(5) Sections 103 and 104 shall not apply to the incidental taking of marine mammals under the authority of this section.

"(b) SCIENTIFIC CONSULTATION.—In implementing the incidental taking program under this section, the Secretary shall seek the advice of individuals with expertise in marine mammal biology and ecology population dynamics and modeling, and commercial fishing technology and practices. Such advice should be sought with respect to information available, and actions proposed, for such implementation, including—

"(1) information provided in connection with stock assessments under this section;

"(2) studies needed to resolve uncertainties regarding stock separation, stock abundance, or trends and factors affecting distribution, size, or productivity of stocks;

"(3) studies needed to resolve uncertainties in determining marine mammal species, numbers, ages, and gender, and the reproductive status of stocks; and

"(4) research to identify modifications in fishing gear and fishing practices likely to reduce the mortality and serious injury of marine mammals incidental to commercial fishing operations.

"(c) STOCK ASSESSMENTS.—(1) Using the best scientific information available and in accordance with this subsection, the Secretary shall prepare and issue, and thereafter (as appropriate) revise, a stock assessment for each marine mammal stock which occurs in waters under the jurisdiction of the United States. The stock assessment shall include—

"(A) a definition of the stock by species or subspecies and its spatial and temporal distribution;

"(B) the best available estimates of the stock's population abundance, realistic minimum populations size, and current population trend;

"(C) estimates of the total lethal take from the stock by source and, for a stock designated under this subsection as a critical stock, other factors that may impede recovery of the stock, including impacts on marine mammal habitat and prey;

"(D) a description of any commercial fishery that interacts with the stock, including—

"(i) the approximate number of vessels participating in the fishery;

"(ii) the approximate incidental lethal and serious injury take from the from the stock by such fishery;

"(iii) seasonal or area differences in levels of such incidental lethal or serious injury take; and

"(iv) the rate of incidental mortality in the stock caused by such fishing, based on a unit of fishing effort;

"(E) a determination as to the status of the stock, including whether the stock is determined to be within its optimum sustainable population range, is designated as depleted under this Act, is listed as threatened or endangered under the Endangered Species Act of 1973, or is proposed for listing as a critical stock under subparagraph (G);

"(F) a determination of the calculated acceptable removal level for the stock and the factors used to calculate it, including a recovery factor if the stock is below its optimum sustainable population; and

"(G) designation of the stock (based on a scientific analysis of the stock's population trend and population size, the level of total lethal take from the stock from all sources, and the best available estimates of net productivity at the maximum net productivity level) for listing in one of the following categories:

"(i) Class 1, consisting of stocks whose population size is declining, or whose population trend is unknown and whose realistic minimum population is less than 10,000, and from which the total annual lethal take exceeds the net productivity of the population when it is at its maximum net productivity level.

"(ii) Class 2, consisting of stocks—

"(I) whose population size is declining, or whose population trend is unknown and whose realistic minimum population is less than 10,000; and from which the total annual lethal take is between 20 percent and 100 percent of the net productivity of the stock's population when it is at its maximum net productivity level; or

"(II) whose population size is stable, or whose population trend is unknown and the realistic minimum population is greater than 10,000 but less than 100,000; and from which the total annual lethal take exceeds the net productivity of the stock's population when it is at its maximum net productivity level.

"(iii) Class 3, consisting of stocks—

"(I) whose population size is declining, or whose population trend is unknown and whose realistic minimum population is less than 10,000; and from which the total annual lethal take is less than 20 percent of the net productivity of the stock's population when it is at its maximum net productivity level;

"(II) whose population size is stable, or whose population trend is unknown and whose realistic minimum population is greater than 10,000 but less than 100,000; and from which the total annual lethal take is between 20 percent and 100 percent of the net productivity of the stock's population when it is at its maximum net productivity level; or

"(III) whose population size is increasing, or whose population trend is unknown and whose realistic minimum population is greater than 100,000; and from which the total annual lethal take exceeds the net productivity of the stock's population when it is at its maximum net productivity level.

"(iv) Class 4, consisting of stocks—

"(I) whose population size is stable, or whose population trend is unknown and the realistic minimum population is greater than 100,000; and from which the total annual lethal take is between 20 percent and 100 percent of the net productivity of the stock's population when it is at its maximum net productivity level; or

"(II) whose population size is increasing, or whose population trend is unknown and whose realistic minimum population is greater than 100,000; and from which the total annual lethal take is between 20 percent and 100 percent of the net productivity of the stock's population when it is at its maximum net productivity level.

"(v) Class 5, consisting of stocks whose population size is increasing, or whose population trend is unknown and the realistic minimum population is greater than 100,000; and from which the total annual lethal take is less than 20 percent of the net productivity of the stock's population when it is at its maximum net productivity level.

"(2) Not later than 240 days after the date of enactment of this section, the Secretary shall issue a draft of each stock assessment required by this subsection, after seeking advice from the experts described in subsection (b). The Secretary shall publish in the Federal Register a notice of availability of the draft and provide an opportunity for public review and comment during a period of not to exceed 60 days.

"(3) Not later than 90 days after the close of the public comment period on such preliminary stock assessment, the Secretary shall publish in the Federal Register a final stock assessment, after consideration of advice, recommendations, and comments of experts and the general public and the best scientific information available.

"(4) The Secretary shall review stock assessments in accordance with this subsection, and obtain advice and recommendations from experts—

"(A) on an annual basis for stocks listed as critical stocks or for which new information is available; and

"(B) at least once every 3 years for all other marine mammal stocks.

The Secretary shall revise such assessments after notice and opportunity for public comment, if the review indicates revision is necessary.

"(d) INCIDENTAL TAKING PLAN.—(1) The Secretary shall develop and implement an incidental taking plan designed to assist in the recovery of each marine mammal stock that is listed as a critical stock and interacts with commercial fisheries. Such plan shall be developed in consultation with the incidental take team established for the plan under this subsection. If there is insufficient funding available to develop and implement an incidental taking plan for all critical stocks that interact with commercial fisheries, the Secretary shall give highest priority to the development and implementation of Class 1 stocks. Within a particular class of critical stocks that interact with commercial fisheries, the Secretary shall give highest priority to the development and implementation of plans for stocks that the Secretary considers the most critical within the class.

"(2) Each incidental taking plan developed under this subsection for a critical stock shall include the following:

"(A) A review and evaluation of the information contained in the stock assessment published under subsection (c) and any new information that may be available.

"(B) An evaluation and estimate of the total number of percentage of animals from the stock that are being killed or seriously injured each year as a result of commercial fishing activities.

"(C) Proposed management measures or voluntary actions for the reduction of incidental taking by commercial fisheries. Such proposed measures and actions shall be developed in light of the plan's immediate objective of reducing incidental lethal and serious injury take by commercial fisheries by the same proportion as their proportion of the total lethal and serious injury take from all sources.

"(D) A long-term strategy to reduce, to insignificant rates approaching zero within 10 years, the incidental mortality and serious injury within the stock that results from commercial fishing operations.

"(3) Each incidental taking plan shall include projected dates for achieving the objectives of the plan. If the total lethal take exceeds the calculated acceptable removal level, the plan shall include measures the Secretary expects will reduce, within 6 months after commencement of fishing, the share of the lethal take that exceeds the calculated acceptable removal level and is attributable to commercial fisheries.

"(4)(A) At the earliest possible time (not later than 120 days) after the Secretary issues a final stock assessment listing a stock as a critical stock, the Secretary shall—

"(i) establish an incidental take team for such critical stock and appoint the members of such team in accordance with subparagraph (C); and

"(ii) publish in the Federal Register a notice of the team's establishment, the names of the team's appointed members, the full geographic range of such critical stock, and all the commercial fisheries that have lethal incidental takings from such stock.

"(B) The Secretary may charge an incidental take team to deal with a stock that extends over one or more regions, or multiple stocks within a region, if the Secretary determines that doing so would facilitate the development and implementation of plans required under this subsection.

"(C) Members of incidental take teams shall be individuals knowledgeable and experienced regarding the measures to conserve such stocks and to reduce any takings from such stock incidental to commercial fishing operations. Members may include representatives of Federal and State agencies, regional fishery management councils and commissions, academic and scientific organizations, environmental and fishery groups, and others as the Secretary considers appropriate. Incidental take teams shall, to the maximum extent practicable, consist of an equitable balance among representatives of government, resource user interests, and non-user interests. Incidental take teams shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.) but their meetings shall be open to the public, after timely publicity on the time and place of such meetings.

"(D) Members of incidental take teams shall serve without compensation, but shall be reimbursed by the Secretary for reasonable travel costs and expenses incurred in performing their duties as members of the team.

"(E) Nothing in this section shall be construed to constrain the Secretary from establishing priority among classes of critical stocks covered by this subsection and exercising discretion (in consultation with scientific experts) to address such stocks in any fiscal year according to that priority.

"(5) Where the total lethal take from such a critical stock is estimated to be greater than the calculated acceptable removal level established in the stock assessment, the following procedures shall apply in the development of the incidental taking plan for the stock:

"(A) Not later than 6 months after the date of establishment of an incidental take team for the stock, the team shall submit a draft incidental taking plan for the critical stock to the Secretary, consistent with the other provisions of this section.

"(B)(i) The Secretary shall take the draft incidental taking plan into consideration and, not later than 60 days after the submission of the draft plan by the team, the Secretary shall publish in the Federal Register a proposed incidental taking plan and proposed regulations to implement such plan, for public review and comment.

"(ii) In the event that the incidental take team does not submit a draft plan to the Secretary within 6 months, the Secretary shall, not later than 8 months after the establishment of the team, publish in the Federal Register a proposed incidental taking

plan and implementing regulations, for public review and comment.

"(C) Not later than 60 days after the close of the comment period required under subparagraph (B), the Secretary shall issue a final incidental taking plan and implementing regulations, consistent with the other provisions of this section.

"(D) The Secretary and the incidental take team shall meet every 6 months to monitor the implementation of the final incidental taking plan until such time that the Secretary determines that meetings are no longer necessary.

"(E) The Secretary may, in consultation with the incidental take team, amend the incidental taking plan and implementing regulations as necessary, consistent with the procedures in this section for the issuance of such plans and regulations.

"(6) Where the total lethal take from a critical stock to which this subsection applies is estimated to be less than the calculated acceptable removal level established in the stock assessment, the following procedures shall apply in the development of the incidental taking plan for the stock:

"(A) Not later than 11 months after the date of establishment of an incidental take team for the stock, the team shall submit a draft incidental taking plan for the stock to the Secretary, consistent with the other provisions of this section.

"(B)(i) The Secretary shall take the draft incidental taking plan into consideration and, not later than 60 days following the submission of the draft plan by the team, the Secretary shall publish in the Federal Register a proposed incidental taking plan and implementing regulations, for public review and comment.

"(ii) In the event that the incidental take team does not submit a draft plan to the Secretary within 11 months, the Secretary shall, not later than 13 months after the establishment of the team, publish in the Federal Register a proposed incidental taking plan and implementing regulations, for public review and comment.

"(C) Not later than 60 days after the close of the comment period required under subparagraph (B), the Secretary shall issue a final incidental taking plan and implementing regulations, consistent with the other provisions of this section.

"(D) The Secretary and the incidental take team shall meet on an annual basis to monitor the implementation of the final incidental taking plan until such time that the Secretary determines that formal meetings are no longer necessary.

"(E) The Secretary may, in consultation with the incidental take team, amend the incidental taking plan and implementing regulations as necessary, consistent with the procedures in this section for the issuance of such plans and regulations.

"(7) If the Secretary finds, prior to the issuance of a final incidental taking plan, that the incidental taking of marine mammals in a commercial fishery is having an immediate and significant adverse impact on the stock to which the plan would apply, the Secretary may, after consultation with appropriate Regional Fishery Management Councils and State fishery managers, prescribe emergency regulations to reduce, to the maximum extent practicable, such incidental taking. In prescribing such emergency regulations, the Secretary shall take into account the economics of the fishery concerned and the availability of existing technology to prevent or minimize incidental taking of marine mammals, and shall conform such regulations, to the maximum extent practicable, with existing State of regional fishery management plans. Such regulations—

"(A) shall be published in the Federal Register together with the reasons therefor;

"(B) shall remain in effect for not more than 180 days, until such time as a final incidental taking plan for the stock is issued, or until the end of the applicable fishing season, whichever is earlier; and

"(C) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination if the Secretary determines the reasons for the emergency regulations no longer exist.

"(e) REGULATORY MEASURES.—(1)(A) The Secretary shall, after notice and opportunity for public comment, promulgate regulations to implement an incidental taking plan necessary to accomplish the objectives set forth in subsection (i).

"(B) Nothing in this paragraph shall be construed to limit the authority of the Secretary to modify the incidental taking plan at the request of the appropriate Regional Fishery Management Council or State or tribal management authority.

(2) In implementing an incidental taking plan issued pursuant to this section, the Secretary may promulgate regulations which include, but are not limited to, measures to—

"(A) Establish fishery-specific incidental lethal taking limits or restrict commercial fisheries by time or area;

"(B) register commercial fishing vessels as set forth in subsection (f);

"(C) require the use of alternative gear techniques and new technologies, encourage the development of such gear or technology, or convene expert skippers' panels;

"(D) educate commercial fishermen and other individuals, through workshops and other means, on the importance of reducing the incidental lethal taking of marine mammals from critical stocks; and

"(E) monitor the level of the incidental lethal taking of marine mammals in the course of commercial fishing operations, as set forth in subsection (h).

"(f) REGISTRATION OF VESSELS.—(1) Subject to the provisions of this subsection, the Secretary may develop a system to register commercial fishing vessels and to assess fishery effort, where such system is necessary, to understand the interaction between commercial fisheries and marine mammal stocks in a region.

"(2) In developing a registration system to understand such interactions, the Secretary shall rely upon existing Federal, State, or tribal data bases which provide the following information about an affected commercial fishery:

"(A) The approximate number of vessels participating in the fishery.

"(B) The identity of specific vessels to be registered.

"(C) The owner or operator, or both, of such vessels.

"(D) The time period in which the fishery occurs.

"(E) The approximate geographic location, or its official reporting area where the fishery occurs.

"(F) The description of fishing gear, including the appropriate unit of fishery effort.

"(3) The incidental take teams shall advise the Secretary as to whether existing Federal, State, or tribal data bases are capable of being utilized to understand the interaction between commercial fisheries and critical stocks in a region. If the Secretary determines, after consultation with such a team, that data bases for specific fisheries which provide the information required under paragraph (2) are not available to the Secretary or the team, the Secretary may require through regulation separate registration to obtain the information set forth in paragraph (2).

"(4)(A) The Secretary may, as a condition of accepting a Federal, State, or tribal registration as adequate for the purposes of this section, require such registration to be supplemented by the requirement that the vessels so registered display a decal or other evidence, issued by the registering authority, that indicates the registration is current.

"(B) To the extent the Secretary determines that separate registration is required for a specific fishery pursuant to paragraph (3), The Secretary is authorized to charge a fee for the issuance of a decal or other evidence indicating the registration is current. The fee charged under this subparagraph shall not exceed the administrative costs incurred in issuing the decal or other evidence. Fees collected under this subparagraph shall be available to the Under Secretary of Commerce for Oceans and Atmosphere for expenses incurred in the issuance of such decal or other evidence.

"(5) The costs of maintaining a separate registry system for a specific fishery pursuant to paragraph (3) shall be covered through Federal appropriations.

"(6) The Secretary may include within a registration system under this subsection only those vessels that fish in a fishery that has frequent or occasional incidental taking of marine mammals.

"(g) REPORTING REQUIREMENT.—The owner or operator of a commercial fishing vessel subject to this Act shall report all incidental lethal and serious injury takings of marine mammals in the course of commercial fishing operations to the Secretary at the end of each fishing trip on a standard form to be developed by the Secretary under this section. Such form shall be readable by computer or other machine and shall require the vessel owner or operator to provide the following:

"(1) The vessel name, and Federal, State, or tribal registration numbers of the registered vessel.

"(2) The name and address of the vessel owner or operator.

"(3) The name and description of the fishery.

"(4) The species of marine mammal incidentally killed or seriously injured, and the date and time of such incidental taking.

"(5) The time and period in which the fishery occurred.

"(6) The approximate geographic location of the incidental taking.

"(h) MONITORING.—(1) The Secretary may establish a vessel observer program to monitor incidental lethal and serious injury takings of marine mammals during the course of commercial fishing operations. The purpose of the monitoring program shall be to develop independent information on interactions between commercial fisheries and marine mammals and to verify reporting of incidental lethal and serious injury takings under subsection (g). Observers may perform other tasks including, but not limited to—

"(A) recording other sources of mortality;

"(B) recording the number of marine mammals sighted during the observation period; and

"(C) other scientific investigations, including collection of marine mammal tissues.

"(2) Commercial fishing vessels shall carry observers on board, when requested by the Secretary, to the extent that the vessel can

safely accommodate the observer. The owner or operator of a vessel who refuses to carry an observer shall be subject to a civil penalty, pursuant to subsection (j).

"(3)(A) The Secretary may establish an incidental take monitoring program to achieve the objectives of this paragraph which may include, but not be limited to, direct observation of fishing activities from vessels, airplanes, video observation, or points on shore.

"(B) Individuals engaged in such monitoring program shall collect scientific information on fisheries consistent with the requirements of this paragraph.

"(4) The cost of the monitoring program shall be funded by Federal appropriations, and the Secretary shall allocate available observers among fisheries consistent with the following priority:

"(A) The highest priority shall be given to fisheries that incidentally lethally take or seriously injure animals from (i) stocks designated as depleted on the basis of their listing as endangered or threatened species under the Endangered Species Act of 1993, or (ii) critical stocks.

"(B) The second highest priority shall be given to fisheries other than those described in subparagraph (A) in which the greatest incidental lethal take and serious injury of marine mammals occurs.

When the Secretary determines that sufficient observation of a specific fishery has occurred, the Secretary may discontinue such observation and direct available observer resources to the next fishery in priority. Nothing in this subsection precludes the Secretary from resuming observation of a fishery when necessary to achieve additional verification of the nature of interactions with marine mammal stocks.

"(5) Notwithstanding paragraph (4), the Secretary may initiate, where necessary, additional monitoring programs to gather information on the interaction between commercial fisheries and marine mammal stocks not identified as critical stocks. Such information may be used to verify—

"(A) the numbers of incidental lethal and serious injury takings of marine mammals in a commercial fishery, and the rate of such takings;

"(B) impacts on marine mammals of changes in fishing patterns or technologies; and

"(C) the accuracy of reporting, by vessel owners and operators, of the lethal and serious injury takings of commercial fishing vessels.

"(i) ZERO MORTALITY RATE GOAL.—(1) Commercial fisheries shall reduce their rates of incidental lethal or serious injury taking, to insignificant rates approaching zero within 10 years after the date of enactment of this section.

"(2) Fisheries which maintain insignificant serious injury and mortality rate levels approaching zero shall not be required to further reduce their mortality rates.

"(3) Three years after such date of enactment, the Secretary shall review the progress, by fishery, toward reducing mortality and serious injury rates to insignificant rates approaching zero. The Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report setting forth the results of such review within 1 year after commencement of the review. The Secretary shall note any fishery for which no information exists on its incidental serious injury or mortality rate of marine mammals.

"(4) If the Secretary determines after review under paragraph (3) that the rate of incidental lethal and serious injury taking in a fishery is not consistent with paragraph (1), then the Secretary shall make recommendations to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives on further actions to achieve the goal specified in paragraph (1).

"(j) PENALTIES.—(1) Except as provided in paragraph (2), a person who violates this section, or any regulations thereunder, may be assessed a civil penalty of not more than $5,000 for each violation, and shall not be subject to penalty under any other provision of this Act. The penalty shall reflect the severity of the violation in relation to preventing the reduction of incidental lethal taking of marine mammals, or the accomplishment of other express objectives of this section.

"(2) Intentional killing of marine mammals, or failure to report incidental lethal takings of marine mammals as required by this section, shall be subject to the penalties in section 105.

"(3) Each owner or operator of a vessel engaged in a fishery that has a remote likelihood of or no known incidental taking of marine mammals, and the master and crew members of such vessel, shall not be subject to penalties under this section or any other provision of this Act for the incidental taking of marine mammals if such owner or operator reports to the Secretary in accordance with subsection (f)(4).

"(k) VOLUNTARY MEASURES.—Nothing in this section shall be construed to limit the Secretary's authority to permit voluntary measures to be utilized in reducing the incidental taking of marine mammals in commercial fisheries.

"(l) DEFINITIONS.—For purposes of this section—

"(1) The term 'calculated acceptable removal level' means the realistic minimum population of a stock, multiplied by the net productivity rate of the stock, multiplied (if applicable) by a recovery factor.

"(2) The term 'critical stock' means a marine mammal stock that is listed as a Class 1 or 2 stock pursuant to subsection (c)(1)(G).

"(3) The term 'incidental take team' means an incidental take team established under subsection (d)(4).

"(4) The term 'incidental taking plan' means an incidental taking plan developed under subsection (d).

"(5) The term 'maximum net productivity level' means the population size of a stock which results in the greatest net productivity.

"(6) The term 'net productivity' means the estimated or theoretical annual increase in population numbers resulting from additions to the population due to reproduction, less the losses due to mortality.

"(7) The term 'net productivity rate' means the net annual per capita rate of increase of a stock at its maximum net productivity level.

"(8) The term 'non-critical stock' means a marine mammal stock that is listed as a Class 3, 4, or 5 stock pursuant to subsection (c)(1)(G).

"(9) The term 'realistic minimum population' means an estimate of the number of animals in a stock that provides reasonable assurance that the population size is equal to or greater than the estimate.

"(10) The term 'recovery factor' means the number that is applied to the calculation of a calculated acceptable removal level to provide reasonable assurance that a stock will recover to its optimum sustainable population.".

SEC. 7. PENALTIES; PROHIBITIONS.

(a) CIVIL PENALTIES.—Section 105(a)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375(a)(1)) is amended by inserting ", except as provided in section 118(j)," immediately after "thereunder".

(b) CRIMINAL PENALTIES.—Section 105(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375(b)) is amended by inserting "(except as provided in section 118(j))" immediately after "thereunder".

(c) PROHIBITIONS.—Section 102(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1372(a)) is amended by striking "and 114" and inserting in lieu thereof "114, and 118".

SEC. 8. ALASKA HARBOR SEALS AND GULF OF MAINE HARBOR PORPOISES.

Notwithstanding any other provision of this Act, including section 118 of the Marine Mammal Protection Act of 1972 (as added by this Act), the Secretary of Commerce shall establish an incidental take team for the harbor seal stock in Alaska and for the harbor porpoise stock in the Gulf of Maine, within 60 days after the date of enactment of this Act. The incidental take teams shall begin work immediately on a draft incidental taking plan in accordance with such section 118, and shall use the best scientific information available. The draft incidental taking plan shall be reviewed by the Secretary, after consultation with scientific experts as described in subsection (b) of such section 118 and after notice and opportunity for public comment, and shall be approved and implemented as quickly as practicable.

SEC. 9. AUTHORIZATION TO DETER MARINE MAMMALS.

Section 101 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371) is amended by adding at the end the following new subsection:

"(d)(1) Except as provided in paragraph (2), the provisions of this Act shall not apply to the use by any person of measures to deter marine mammals from—

"(A) damaging the gear or catch of commercial or recreational fishermen;

"(B) damaging private or public property; or

"(C) endangering personal safety,

so long as such measures do not result in marine mammal death or serious injury.

"(2) If the Secretary determines, using the best scientific information available, that certain forms of deterrence have a significant adverse effect on marine mammals, the Secretary may prohibit such deterrent methods through regulation under this Act.

"(3) The authority to deter marine mammals pursuant to paragraph (1) applies to all marine mammals, including all stocks designated as depleted under this Act.".

SEC. 10. TREATY RIGHTS.

Nothing in this Act, including any amendments made by this Act, is intended to abrogate or diminish existing Indian treaty fishing or hunting rights, and regulation of Native American fishing and hunting activities shall be limited to measures consistent with existing treaty rights.

SEC. 11. TRANSITION RULE.

Section 114(a)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1383a(a)(1)) is amended by striking "ending April 1, 1994," and inserting in lieu thereof "until superseded by regulations prescribed under section 118,".

SEC. 12. TECHNICAL AMENDMENTS.

(a) DEFINITIONS.—Section 3 of the Marine Mammal Protection Act of 1972 (16 U.S.C.

1362) is amended by redesignating the last three paragraphs as paragraphs (16), (17), and (18), respectively.

(b) MARINE MAMMAL HEALTH AND STRANDING RESPONSE.—The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended—

(1) by redesignating title III, as added by Public Law 102-587 (106 Stat. 5060), as title IV; and

(2) by redesignating the sections of that title (16 U.S.C. 1421 through 1421h) as sections 401 through 409, respectively.

• Mr. STEVENS. Mr. President, I am pleased to be able to introduce this bill with my friend from Massachusetts to create a new regime governing commercial fisheries interactions with marine mammals. This bill reflects an extensive meeting process between the commercial fishing industry, the environmental community, the administration, and others concerned about the protection of marine mammals. The Commerce, Science, and Transportation Committee heard testimony at hearings earlier this session as well, and we appreciate the valuable assistance and comments of all those involved in putting this bill together.

Our bill addresses only commercial fisheries' interactions with marine mammals. It would replace the interim regime that has governed the taking of marine mammals incidental to commercial fishing operations since the 1988 amendments to the MMPA were passed. The legislation will help to focus limited Federal resources on the marine mammal stocks most in danger.

There are other outstanding issues we will need to address as part of the broader MMPA reauthorization. We anticipate additional MMPA provisions, as well as possible changes to this commercial fisheries interaction provision before the reauthorization process is completed. General concerns have been expressed to me by the Native community in my State about the possible side effects this proposal could have on subsistence use. I would ask the cooperation of my colleagues to help me in addressing these concerns before final action is taken on this bill.•

By Mr. JOHNSTON:

S. 1637. A bill to provide a more effective, efficient, and responsive Department of the Interior; to the Committee on Energy and Natural Resources.

S. 1638. A bill to provide a more effective, efficient, and responsive Department of Energy; to the Committee on Energy and Natural Resources.

DEPARTMENTS OF ENERGY AND INTERIOR REFORM AND SAVINGS ACTS OF 1993

• Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Department of Interior Reform and Savings Act of 1993 and the Department of Energy Reform and Savings Act of 1993 be introduced and printed in the CONGRESSIONAL RECORD.

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

S. 1637

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

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Department of the Interior Reform and Savings Act of 1993".

TITLE I—IMPROVE THE FEDERAL HELIUM PROGRAM

SEC. 101. AMENDMENTS TO HELIUM ACT AMENDMENTS OF 1960.

(a) Section 4 of the Helium Act Amendments of 1960 (74 Stat. 920, 50 U.S.C. 167b) is amended to insert after "lands acquired, leased, or reserved;" the following: "reduce costs and increase operational efficiencies, especially in operations that do not produce revenue; establish and adjust fees charged private industry for storage, transmission, and withdrawal of privately-owned helium from Government storage facilities to compensate fully for all costs incurred;".

(b) Section 6 of the Helium Act Amendments of 1960 (74 Stat. 921, 50 U.S.C. 167d) is amended—

(1) by amending subsection (b) to read:

"(b) The Secretary is authorized to sell helium for Federal, medical, scientific, and commercial uses in such quantities and under such terms and conditions as the Secretary determines. Sales shall be made in quantities and a manner to avoid undue disruption of the usual markets of producers, processors, and consumers of helium and to protect the United States against avoidable loss."; and

(2) by amending subsection (c) to read:

"(c) Sales of helium by the Secretary shall be at prices, as established by the Secretary, that are adequate to cover all costs incurred in carrying out the provisions of this Act. Helium shall be sold at prices comparable to helium sold by private industry. An annual review of price comparability shall be made and adjustments shall be made accordingly.".

SEC. 102. LONG-TERM COMPREHENSIVE PLAN.

The Secretary of the Interior shall prepare and develop a long-term, comprehensive plan to (1) cancel the outstanding debt owed to the Treasury by the Department of the Interior related to the Federal helium program; and (2) improve Federal helium program operations over a multi-year period. The plan should analyze various options to accomplish (1) and (2) above, with emphasis on ways to minimize adverse impacts on Federal employment, Federal helium purchasers, and U.S. private sector helium markets. The plan, with the Secretary's preferred options, shall be presented to the President within 4 months of enactment of this Act. The President may adopt the plan, in whole or in part, and is authorized to cancel thestanding debt upon a finding that such debt cancellation is in the national interest.

TITLE II—IMPROVE MINERALS MANAGEMENT SERVICE ROYALTY COLLECTION

SEC. 201. IMPROVEMENT OF MINERALS MANAGEMENT SCIENCE ROYALTY COLLECTION.

(a) The Secretary of the Interior shall, by fiscal year 1995, direct the Minerals Management Service, Royalty Management Program to develop and implement (1) an automated business information system to provide to its auditors a lease history that includes reference, royalty, production, financial, compliance history, pricing and valuation, and other information; (2) the optimum methods to identify and resolve anomalies and to verify that royalties are paid correctly; (3) a more efficient and cost-effective royalty collection process by instituting new compliance and enforcement measures, including assessments and penalties for erroneous reporting and underreporting; and (4) such other actions as may be necessary to reduce royalty underpayment and increase revenue to the U.S. Treasury by an estimated total of $28 million for fiscal year 1999.

(b) The Federal Oil and Gas Royalty Management Act of 1982 (Public Law No. 97-451), 30 U.S.C. 1701 et seq.) is amended by adding a new subsection 111(h) as follows:

"PENALTY ASSESSMENT FOR SUBSTANTIAL UNDERREPORTING OF ROYALTY"

"SEC. 111. (h)(1) If there is any underreporting of royalty owned on production from any lease issued or administered by the Secretary for the production of oil, gas, coal, any other mineral, or geothermal steam, from any Federal or Indian lands or the Outer Continental Shelf, for any production month, by any person who is responsible for paying royalty, the Secretary may assess a penalty of 10 percent of the amount of that underreporting.

"(2) If there is a substantial underreporting of royalty owed on production from any lease issued or administered by the Secretary for the production of oil gas, coal, any other mineral, or geothermal steam. from any Federal or inland lands or the Outer Continental Shelf, for any production month, by any person who is responsible for paying royalty, the Secretary may assess a penalty of 20 percent of the amount of that substandial underreporting.

"(3) For purposes of this section, the term 'underreporting' means the difference between the royalty on the value of the production which should have been reported and the roylalty on the value of the production which was reported, if the value of the production which should have been reported is greater than the value of theproduction which was reported. An underreporting constitutes a 'substantial underreporting' if such difference exceeds 10 percent of the royalty on the value of the production which should have been reported.

"(4) The Secretary shall not impose the assessment provided in paragraphs (1) or (2) if the person corrects the underreporting before the date the person receives notice from the Secretary that an underreporting may have occurred, or before 90 days after the date of enactment of this section, whichever is later.

"(5) The Secretary shall waive any portion of an assessment provided in paragraphs (1) or (2) attributable to that portion of the underreporting for which the person demonstrates that—

"(1) the person had written authorization from the Secretary to report royalty on the value of the production on the basis on which it was reported, or

"(ii) the person had substantial authority for reporting royalty on the value of the production on the basis on which it was reported, or

"(iii) the person previously had notified the Secretary, in such manner as the Secretary may by rule prescribe, of relevant reasons or facts affecting the royalty treatment of specific production which led to the underreporting, or

"(iv) the person meets any other exception which the Secretary may, by rule, establish.

"(6) All penalties collected under this subsection shall be deposited to the same accounts in the Treasury or paid to the same recipients in the same manner as the royalty with respect to which such penalty is paid.".

TITLE III—PHASE OUT THE MINERAL INSTITUTE PROGRAM

SEC. 301. PHASE OUT OF MINERAL INSTITUTE PROGRAM.

The Secretary of the Interior, beginning in fiscal year 1995, shall take action to phase out the Mining and Mineral Resources Research Institute Act of 1984, Public Law 98-409, as amended (98 Stat. 1536 through 1541 and 102 Stat. 2339 through 2341, 30 U.S.C. 1221 through 1230). There are hereby authorized to be appropriated under the Act of the following amounts: fiscal year 1995—$6.5 million; fiscal year 1996—$5 million; fiscal year 1997—$3 million; and fiscal year 1998—$1.5 million. No further appropriations for this Act are authorized after September 30, 1998.

S. 1638

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

SECTION 1. SHORT TITLE

This Act may be referred to as the "Department of Energy Reform and Savings Act of 1993".

TITLE I—ALASKA POWER ADMINISTRATION SALE AUTHORIZATION ACT

SEC. 101. SHORT TITLE.

This subtitle may be cited as the "Alaska Power Administration Sale Authorization Act".

SEC. 102. SALE OF SNETTISHAM AND EKLUTNA HYDROELECTRIC PROJECTS.

(a) The Secretary of Energy may sell the Snettisham Hydroelectric Project (referred to in this subtitle as "Snettisham") to the State of Alaska Power Authority (now known as the Alaska Industrial Development and Export Authority, and referred to in this subtitle as the "Authority"), or its successor, in accordance with the February 10, 1989, Snettisham Purchase Agreement between the Alaska Power Administration of the United States Department of Energy and the Authority.

(b) The Secretary of Energy may sell the Eklutna Hydroelectric Project (referred to in this subtitle as "Eklutna") to the Municipality of Anchorage doing business as Municipal Light and Power, the Chugach Electric Association, Inc., and the Matanuska Electric Association, Inc. (referred to in this subtitle as "Eklutna Purchasers") in accordance with the August 2, 1989, Eklutna Purchase Agreement between the United States Department of Energy and the Eklutna Purchasers.

(c) The heads of other affected Federal departments and agencies, including the Secretary of the Interior, shall assist the Secretary of Energy in implementing the sales authorized by this Act.

(d) The Secretary of Energy shall deposit sale proceeds in the Treasury of the United States to the credit of miscellaneous receipts.

(e) There are authorized to be appropriated such sums as are necessary to prepare or acquire Eklutna and Snettisham assets for sale and conveyance, such preparations to provide sufficient title to ensure the beneficial use, enjoyment, and occupancy to the purchasers of the assets to be sold.

(f) No later than one year after both of the sales authorized in section 102 have occurred, as measured by the Transaction Dates stipulated in the Purchase Agreements, the Secretary of Energy shall—

(1) complete the business of, and close out, the Alaska Power Administration; and

(2) prepare and submit to Congress a report documenting the sales.

SEC. 103. ASSESSMENT OF ALTERNATIVE OPTIONS.

Before taking any action authorized in section 102, the Secretary shall assess the feasibility of alternative options for maximizing the return to the Treasury from the sale of the Alaska Power Marketing Administration.

TITLE II—FEDERAL-PRIVATE COGENERATION OF ELECTRICITY

SEC. 201. FEDERAL-PRIVATE COGENERATION OF ELECTRICITY.

Section 804(2)(B) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)(B)) is amended by striking ", excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities.".

TITLE III—POWER MARKETING ADMINISTRATION DEBT BUYOUT

PART 1—BONNEVILLE POWER ADMINISTRATION DEBT BUYOUT

SEC. 301. SHORT TITLE.

This part may be cited as the "Bonneville Power Administration Repayment Bonds Act".

SEC. 302. SALE OF BONDS.

Notwithstanding any other law and without fiscal year limitation—

(1) in addition to the authority in section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k), the Administrator may issue and sell bonds, notes, and other evidences of indebtedness (referred to in this part as "Bonds") in the manner and amounts the Administrator, considers appropriate in the name of and for and on behalf of the Bonneville Power Administration, to—

(A) satisfy the unpaid repayment obligation associated with the appropriated capital investment made in the Federal Columbia River Power System before the issuance of the Bonds authorized under this part takes place, but not including Federal irrigation investments assigned to be repaid from power revenues; and

(B) refund Bonds;

(2) the Administrator shall transfer, and the Secretary of the Treasury shall accept for the account of the General Fund, the net proceeds of the Bonds referred to in paragraph (1)(A), and when the Secretary of the Treasury receives the net proceeds, the repayment obligation associated with the part of the appropriated capital investment in the Federal Columbia River Power System covered by the Bonds is considered to be satisfied forever;

(3) the Secretary of the Treasury, in consultation with the Administrator, shall establish the amount of proceeds needed to satisfy the unpaid repayment obligation associated with the part of the capital investment referred to in paragraph (1)(A) as the amount necessary to increase the sum of the net proceeds and the discounted present value of the remaining Federal debt service of the Federal Columbia River Power System by $100 million relative to the discounted present value of the total Federal debt service of the Federal Columbia River Power System as provided by the Administrator based upon the repayment schedule that would have been paid under repayment policy and practices in effect on September 1, 1993;

(4) to determine the discounted present values in paragraph (3), the Secretary of the Treasury shall use discount rates based on the secondary market's average yield for the most recently issued 30-year Treasury bonds when the Bonds authorized in paragraph (1) are issued;

(5) these Bonds shall be in the forms and denominations, bear the maturities (without respect to the remaining average service life of the capital investment associated with the repayment obligation satisfied by the Bonds issued under this part), be issued and sold at the times, prices, discounts, and yields, and be subject to other terms and conditions (including variable rates) as the Administrator considers appropriate;

(6) under section 2(f) of the Bonneville Project Act of 1937 (16 U.S.C. 832a(f)) and this part, the Administrator may enter into any contract that the Administrator considers necessary for the purposes of carrying out this part including, but not limited to, contracts for—

(A) the payment of the principal, interest, and premium, if any, on Bonds issued under this part;

(B) the purchase or redemption of those Bonds;

(C) the payment of costs and expenses incidental to this payment, purchase, and redemption; or

(D) the creation of reserve and other funds to be held by a trustee, which funds the Administrator may pledge exclusively to pay those costs for which the funds were created and establish a lien on the funds in favor of the beneficiaries of the funds under any indenture, resolution, or other agreement entered into in connection with the issuance of Bonds under this part;

(7) Bonds issued under this part—

(A) shall be issuable and payable through the Federal wire system;

(B) are negotiable instruments that may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which is under the authority or control of any officer or agency of the United States;

(C) may be held without limitation by national banks;

(D) qualify as legal investments for banks, savings and loan institutions, and credit unions; and

(E) are eligible collateral for Federal advances and discounts, for deposits of the United States, and for the Treasury tax and loan accounts;

(8) Bonds issued under this part are not intended to be and are not secured by the full faith and credit of the United States;

(9) Bonds issued under this part are exempt both as to principal and interest from all taxation by any State or local taxing authority, except estate, inheritance, and gift taxes;

(10) Bonds issued under this part shall contain a recital that they are issued under this part and this recital is conclusive evidence of the regularity of the issuance and sale of the Bonds and their validity;

(11) the Bonds issued under this part, all receipts of the Secretary of the Treasury under this part, any portion of the fund established under the Federal Columbia River Transmission System Act (16 U.S.C. 838 et seq.) related to these Bonds, all receipts and disbursements of that fund related to these Bonds, and all expenditures by the Administrator related to these Bonds—

(A) are exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government, sequestration order, or discretionary spending limit;

(B) are exempt from any order issued pursuant to sections 251, 252, or 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.); and

(C) are not subject to apportionment under subchapter II of chapter 15 of title 31, United States Code;

(12) in all future contracts for the sale of electric power, transmission, or other services, the Administrator shall include provisions specifying that after the repayment obligation is fully and forever satisfied, the Administrator's rates for electric power, transmission, or other services shall not include any form of economic rent to be returned to the United States Government, including, without limitation, a falling water charge or any other fee for use of Federal facilities for power generation or transmission, that relates to a project, facility, or separable unit of a project or facility associated with the satisfied repayment obligation, other than a charge necessary to repay the new indebtedness incurred under this part. Amounts provided under section 1304 of title 31, United States Code, shall be the sole source for payment of a judgment against the Administrator or the United States on a claim for a violation of the contract provision required by this paragraph;

(13) the Administrator shall offer to amend the Administrator's existing contracts for the sale of electric power, transmission, or other services to include the provisions described in paragraph (12); and

(14) the Administrator shall consult with the Secretary of the Treasury regarding the timing and structure of the bonds issued under this part.

SEC. 303. PAYMENT OF BOND COSTS.

Section 11(b)(6) of the Federal Columbia River Transmission System Act (16 U.S.C. 838i(b)(6)), is amended by striking "or" before "(iv)" and by inserting before the semicolon ", or (v) to pay the cost of financing and debt service, including premiums, if any, on Bonds issued by the Bonneville Power Administration".

SEC. 304. COMBINED REPAYMENT STUDY.

Section 7(a) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 893e(a)), is amended by adding after paragraph (2) the following:

"(3) In establishing power and transmission rates, the Administrator may base them on a single, combined generation and transmission repayment study which demonstrates that all indebtedness is repaid by its due date. The use of such a study is sufficient for the commission to approve the rates as meeting repayment requirements.".

SEC. 305. DEFINITIONS.

For the purposes of this part—

(1) "Administrator" means the Administrator of the Bonneville Power Administration; and

(2) "appropriated capital investment made in the Federal Columbia River Power System" means an investment made by the United States that—

(A) is made using Federal appropriations;

(B) is for a project or separable feature of a project that is placed in service;

(C) is allocated to power and required by law to be repaid from the power revenues by the Administrator;

(D) is not allocated or suballocated to irrigation; and

(E) excludes an investment made using funds borrowed under section 13 of the Federal Columbia River Transmission System Act.

PART 2—OTHER POWER MARKETING ADMINISTRATIONS DEBT BUYOUT

SEC. 306. SHORT TITLE.

This part may be cited as the "Power Marketing Administrations Financing Act".

SEC. 307. DEFINITIONS.

For the purposes of this part—

(1) "Administrator" means the Administrator of the Southeastern Power Administration, the Administrator of the Southwestern Power Administration, and the Administrator of the Western Area Power Administration;

(2) "Fund" means the Power Marketing Administration Sinking Fund established under section 309; and

(3) "Power marketing administration" means the Southeastern Power Administration, the Southwestern Power Administration, and the Western Area Power Administration.

SEC. 308. REPAYMENT OF EXISTING INDEBTEDNESS.

(a) Notwithstanding any other law, within 12 months after the enactment of this Act, each Administrator shall develop, in consultation with the Secretary of the Treasury, and shall implement a plan for paying the United States Treasury the discounted present value of principal and interest payments on power investments scheduled to be paid to the United States Treasury as provided by the Administrator under existing law and repayment practices by that power marketing administration, as well as a one-time additional payment of $12,500,000 by the Southeastern Power Administration, $12,500,000 by the Southwestern Power Administration, and $50,000,000 by the Western Area Power Administration. Each Administrator shall issue revenue bonds as provided in section 310 to pay the obligation to the United States Treasury addressed in this section, except that the issuance of these bonds shall occur only if each Administrator determines by means of financial studies that the refinancing will not cause an increase in power rates over existing repayment practices. When the Treasury receives full payment from an Administrator, it shall consider the repayment obligation of the Administration associated with the payment fully and forever discharged.

(b) In all future contracts for the sale of electric power, transmission, or other services, each Administrator shall include provisions agreeing that when the repayment obligation is fully and forever discharged under subsection (a), the Administrator's rates for electric power, transmission, or other services shall not, other than is necessary to repay the new indebtedness incurred under this Act, include any charge in place of the satisfied obligation or include any other similar form of economic rent by or returned to the United States (including, without limitation, a falling water charge or any other type of user fee for use of Federal facilities for the purpose of power generation and transmission) on account of any project, facility, or separable unit of a project or facility associated with the repayment obligation satisfied.

(c) Each Administrator shall offer to amend existing contracts for the sale of electric power, transmission, or other services to include the provision described in subsection (b).

SEC. 309. POWER MARKETING ADMINISTRATION SINKING FUND.

(a) There is established in the Treasury of the United States a Power Marketing Administration Sinking Fund. The Secretary of the Treasury, acting as trustee for the power marketing administrations, shall establish and maintain a separate account in the Fund for each power marketing administration, and monies of one power marketing administration shall not be commingled with monies of another power marketing administration. Within the separate account for each power marketing administration, separate projects or systems shall be accounted for separately. An Administrator may deposit into the Fund the monies derived from revenues that the Administrator considers appropriate to ensure that the bonds issued under section 310 are refunded in a timely manner.

(b) Balances in the Fund shall earn interest at a rate determined by the Secretary of the Treasury.

(c) An Administrator may make expenditures from the Administrator's account in the Fund without further appropriation and without fiscal year limitation to pay indebtedness incurred from bonds issued under section 310.

(d) Each power marketing administration shall maintain its books of account in substantial conformance with the Uniform System of Accounts of the Federal Energy Regulatory Commission.

(e) The financial transactions of an Administrator shall be audited by independent financial auditors, and reports of the results of each audit shall be made to the Congress within 6½ months following the end of the fiscal year covered by the audit.

SEC. 310. REVENUE BONDS.

(a) Each Administrator, in consultation with the Secretary of the Treasury, may issue and sell from time to time in the name of, and for and on behalf of, the respective power marketing administration bonds, notes, and other evidences of indebtedness (in this section collectively referred to as "bonds") to refinance existing indebtedness as provided in section 308 and to issue and sell bonds to refund those bonds. The bonds shall be in the forms and denominations, bear maturities (without respect to the remaining average service life of facilities), and be subject to terms and conditions as prescribed by the Administrator taking into account terms and conditions prevailing in the market for similar bonds and financing practices of the utility industry. Provisions for early retirement of bonds may be prescribed by each Administrator. The bonds shall bear interest at a rate determined by the Administrator.

(b) Each Administrator may enter into any contract that the Administrator considers necessary for the purposes of carrying out this part including, but not limited to, contracts for—

(1) the payment of the principal, interest, and premium, if any, on bonds issued under this part;

(2) their purchase or redemption;

(3) the payment of costs and expenses incidental to their payment, purchase, and redemption; or

(4) the creation of reserve and other funds to be held by the Secretary of the Treasury as trustee, which funds the Administrator may pledge exclusively to pay those costs for which the funds were created and may establish a lien on the funds in favor of the beneficiaries of the funds under any indenture, resolution, or other agreement entered into in connection with the issuance of bonds under this part.

(c) Bonds issued under this part—

(1) shall be issuable and negotiable through the Federal wire system;

(2) are negotiable instruments that may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which is under the authority or control of any officer or agency of the United States;

(3) may be held, without limitation, by national banks;

(4) qualify as legal instruments for banks, savings and loan institutions, and credit unions; and

(5) are eligible collateral for Federal advances and discounts, for deposits of the

United States, and for Treasury tax and loan accounts.

(d) Bonds issued under this part are exempt both as to principal and interest from all taxation by any State or local taxing authority, except estate, inheritance, and gift taxes.

(e) Bonds issued under this part shall contain a recital that they are issued under this part and such a recital is conclusive evidence of the regularity of the issuance and sale of the bonds and their validity.

(f) These bonds are not intended to be and are not secured by the full faith and credit of the United States.

(g) The bonds issued under this part, all receipts of the Secretary of the Treasury under this part, any portion of the Fund established under section 310 related to these bonds, all receipts and disbursements of the Fund related to these bonds, and all expenditures by an Administrator related to these bonds—

(1) are exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government, sequestration order, or discretionary spending limit;

(2) are exempt from any order issued pursuant to sections 251, 252, or 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.); and

(3) are not subject to apportionment under subchapter II of chapter 15 of title 31, United States Code.

(h) With respect to the Western Area Power Administration, except as otherwise provided, this Act is considered to be a supplement to the Federal reclamation laws.●

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 1639. A bill for the management of portions of the Presidio under the jurisdiction of the Secretary of the Interior, and for other purposes; to the Committee on Energy and Natural Resources.

PRESIDIO CORPORATION ESTABLISHMENT

● Mrs. BOXER. Mr. President, today I am introducing legislation, on behalf of myself and my colleague, Senator FEINSTEIN, the senior Senator from California, that will contribute to the success of the Presidio of San Francisco as a national park.

In 1972, Congress recognized the park potential of the Presidio. At that time Congressman Phil Burton's legislation creating the Golden Gate National Recreation Area [GGNRA] was drawn to include the Presidio, and provided that the Presidio would become a national park when it was no longer needed by the Army.

That time has now come, and the Army has begun the process of leaving the Presidio. Planning for the transition from military base to park has been underway and the draft general management plan for the Presidio was released last month for public comment.

It is projected that the new park will attract 10 million or more visitors a year. Those visitors will enjoy one of the most beautiful and historic urban open spaces in the world not already set aside as a park. The park offers a spectacular vistas of the Pacific Ocean, the Golden Gate, the Marin Headlands, San Francisco Bay, and the skyline of San Francisco.

The Presidio also offers over 200 years of military history, from its founding in 1776, through the Civil War, the Spanish-American War, and World Wars I and II. Presidio architecture represents a remarkable collection of structures dating from the days of Mexican sovereignty over California. The entire Presidio was declared a National Historic Landmark in 1962.

The bill I am introducing today is the second step in a two-step process designed to make the Presidio park as self-sufficient as possible and to minimize the need for annual congressional appropriations. The first bill, introduced by Senator FEINSTEIN and myself 2 weeks ago, will provide the Secretary of the Interior the authority he needs to go forward, on an interim basis, with lease negotiations for Presidio properties. The bill we introduce today will establish the Presidio Corp., a public benefit corporation modeled on the Pennsylvania Avenue Development Corp.

The corporation will manage the facilities at the Presidio which are not of the type normally administered by the National Park Service. It will be responsible for leasing, maintenance, and property management—all within the provisions of the final National Park Service plan for the Presidio. The open space, forests, and recreational land will be managed by the Park Service as they are doing in other parts of the GGNRA.

Critical to the success of this undertaking will be the Presidio's ability to generate revenues to offset the costs of operation and capital improvement. The corporation would have the flexibility necessary to negotiate terms of leases and other contracts, to leverage lease revenues and to utilize a staff qualified in financial management. It would be accountable to the public through a public-private governing board of directors, annual auditing and reporting requirements, and a statutory requirement to adhere to the publicly approved general management plan for the Presidio.

According to expert analysis, the Presidio Corp. established by this bill would produce savings of 20 to 30 percent when compared to the cost of total Federal management of the Presidio. The Presidio is an example of defense conversion that will be cost effective while serving an important national purpose.

This bill has the support of the Park Service, the Department of the Interior, local and national environmental groups, and the local community.

The Presidio is one of the Nation's great treasures. If we act now, we can ensure its successful transformation from a military base into a monument to environmental preservation and recreation as a national park.●

By Mr. EXON:

S. 1640. A bill to amend the Hazardous Materials Transportation Act to authorize appropriations to carry out that Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

HAZARDOUS MATERIALS TRANSPORTATION AUTHORIZATION ACT OF 1993

Mr. EXON. Mr. President, I rise to introduce the Hazardous Materials Transportation Authorization Act of 1993, S. 1640.

This legislation builds on the success of the Hazardous Materials Transportation Uniform Safety Act of 1990. Over the years, the United States of America has developed a most impressive safety record for the transportation of hazardous materials. There are nearly a half-million hazmat movements each and every day. Rarely is there a dangerous incident.

Unfortunately, that record is not good enough. Each year there are still thousands of unintentional hazmat releases, 400 human injuries, and 8 to 10 deaths as a result of hazardous materials incidents. Safety can and must be improved.

The 1993 Hazardous Materials Transportation Authorization Act makes commonsense changes which will significantly advance hazardous transportation safety on all modes. The presence of hazardous materials on the Nation's highways and byways also highlights the need for several truck safety initiatives also included in this legislation.

On July 21 of this year the Surface Transportation Subcommittee heard testimony from the Clinton administration, shippers, carriers, emergency response providers, and labor. This legislation takes into consideration that testimony and proposes significant, but manageable, safety improvements.

The bill reauthorizes the hazmat program at the levels recommended by the President and incorporates several provisions to improve the use of hazmat resources by the Department of Transportation, as well as State and local authorities. To improve emergency response training and planning, provisions to allow Indian tribes to qualify for hazmat planning grants, and clarifications to the training criteria for emergency response are added to the basic hazmat law. The bill requires the retention of shipping papers. In addition, to prevent retaliation fromour international trading partners, a registration and fee exemption for offerors of hazmat shipments domiciled outside of the United States is included. All carriers of international hazmat shipments destined for the United States would be unaffected by this provision and would continue to file and pay registration fees.

As the Nation deploys intelligent vehicle highway systems IVHS the 1993 hazmat bill requires that the promotion of safe hazardous materials transportation become a top IVHS priority.

On the issue of rail tank car safety, it is fair to say that the previous administration took its time in responding to the repeated congressional concern, inquiry, and legislation. Incomplete rule makings on rail tank car safety issues have been pending for several years. Explanations and excuses from the executive branch must be replaced with action. This legislation requires that the Department of Transportation issue final rules within 12 months with regard to two pending rail tank car safety rulemakings.

Mr. President, one provision of which I am very proud attempts to motivate safe behavior at rail-highway grade crossings. Under the 1993 bill, a new Federal fine of up to $25,000 could be imposed on any driver of a motor vehicle carrying hazardous materials or a driver of any commercial motor vehicle, entering a highway-railroad grade crossing without having sufficient space to drive completely through the crossing without stopping. Earlier this year, an Amtrak train hit a tanker truck grid-locked in a grade crossing. The resulting fireball from the crash killed the driver and several innocent individuals in nearby cars. The threat of a significant Federal civil penalty should get the attention of all drivers.

In the area of general safety enforcement, the bill improves law enforcement's ability to enforce current hours of service rules for all professional drivers and recognizes the special hours of service needs of rural America during planting season. The bill also requires the Secretary to issue rules which will make it easier for employers to verify the safety record of new truck drivers.

The final provision I will mention creates a toll-free number for drivers, shippers, and the public to call to report potential Hazardous Materials Transportation Act violations.

Mr. President, my top priority as chairman of the Surface Transportation Subcommittee is to ensure safety. This legislation advances safety in a responsible and deliberate manner. I encourage my colleagues to study and support this necessary and important legislation.

Thank you, Mr. President. I ask unanimous consent that the text of the Hazardous materials Authorization Act of 1993 be entered into the RECORD as if read following my remarks.

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

S. 1640

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 "Hazardous Materials Transportation Authorization Act of 1993".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 115(a) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1812(a)) is amended by striking all after "not to exceed" and inserting in lieu thereof "$12,600,000 for fiscal year 1994, $13,100,000 for fiscal year 1995, and $13,600,000 for fiscal year 1996.".

SEC. 3. EXEMPTIONS FROM REQUIREMENT TO FILE REGISTRATION STATEMENT.

Section 106(c) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1805(c)) is amended by adding at the end the following new paragraph:

"(16) FOREIGN OFFERORS.—A person who is domiciled outside the United States and who offers, solely from a location outside the United States, hazardous materials for transportation in commerce does not have to file a registration statement under this subsection.".

SEC. 4. PLANNING GRANTS FOR INDIAN TRIBES.

(a) AUTHORITY TO MAKE GRANTS.—Section 117A(a)(1) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1815(a)(1)) is amended—

(1) in the introductory matter, by inserting "and Indian tribes" immediately after "States"; and

(2) in subparagraph (A), by striking "within a State and between a State and another State" and inserting in lieu thereof "within the lands under the jurisdiction of a State or Indian Tribe, and between the lands under the jurisdiction of a State or Indian tribe and the lands of another State or Indian tribe".

(b) MAINTENANCE OF EFFORT.—Section 117A(a)(2) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1815(a)(2)) is amended by inserting "or Indian tribe" immediately after "State" each place it appears.

(c) COORDINATION OF PLANNING.—Section 117A(a) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1815(a)) is amended by adding at the end the following new paragraph:

"(4) COORDINATION OF PLANNING.—A State or Indian tribe receiving a grant under this subsection shall ensure that planning under the grant is coordinated with emergency planning conducted by adjacent States and Indian tribes.".

SEC. 5. TRAINING CRITERIA FOR SAFE HANDLING AND TRANSPORTATION.

Sectin 106(b)(3) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1805(b)(3)) is amended—

(1) in the paragraph heading, by striking "EMERGENCY RESPONSE" and insert in lieu thereof "EMPLOYEE";

(2) by inserting "or duplicate" immediately after "conflict with"; and

(3) by striking all after "Labor relating to" through "(and amendments thereto) and" and inserting in lieu thereof "hazard communication, and hazardous waste operations and emergency response, contained in part 1910 of title 29 of the Code of Federal Regulations (and amendments thereto) or".

SEC. 6. DISCLOSURE OF FEES LEVIED BY STATES, POLITICAL SUBDIVISIONS, AND INDIAN TRIBES.

Section 112(b) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1811(b)) is amended—

(1) by inserting immediately after "(b) FEES.—" the following heading:

"(1) RESTRICTION.—"; and

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

"(2) DISCLOSURE. —A State or political subdivision thereof or Indian tribe that levies a fee in connection with the transportation of hazardous materials shall, upon the Secretary's request, report to the Secretary on—

"(A) the basis on which the fee is levied upon persons involved in such transportation;

"(B) the purposes for which the revenues from the fee are used;

"(C) the annual total amount of the revenues collected from the fee; and

"(D) such other matters as the Secretary requests.".

SEC. 7. ANNUAL REPORT.

Section 109 of the Hazardous Materials Transportation Act (49 App. U.S.C. 1808(e) is amended by striking the first sentence and inserting in lieu thereof the following: "The Secretary shall, once every 2 years, prepare and submit to the President for transmittal to the Congress a comprehensive report on the transportation of hazardous materials during the preceding 2 calendar years.".

SEC. 8. INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.

In implementing the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note), the Secretary of Transportation shall ensure that the National Intelligent Vehicle-Highway Systems Program addresses, in a comprehensive and coordinated manner, the use of intelligent vehicle-highway system technologies to promote hazardous materials transportation safety. The Secretary of Transportation shall ensure that one or more operational tests funded under such Act shall promote such safety and advance technology for providing information to persons who provide emergency response to hazardous materials transportation incidents.

SEC. 9. RAIL TANK CAR SAFETY.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue final regulations under the following:

(1) The rulemaking proceeding under Docket NM-175A entitled "Crashworthiness Protection Requirements for Tank Cars".

(2) The rulemaking proceeding under Docket HM-201 entitled "Detection and Repair of Cracks, Pits, Corrosion, Lining Flaws, Thermal Protection Flaws and Other Defects of Tank Car Tanks".

SEC. 10. SAFE PLACEMENT OF TRAIN CARS.

The Secretary of Transportation shall conduct a study of existing practices regarding the placement of cars on trains, with particular attention to the placement of cars that carry hazardous materials. In conducting the study, the Secretary shall consider whether such placement practices increased the risk of derailment, hazardous materials, spills, or tank ruptures or have any other adverse effect on safety. The results of the study shall besubmitted to Congress within 1 year after the date of enactment of this Act.

SEC. 11. GRADE CROSSING SAFETY.

The Secretary of Transportation shall, within 6 months after the date of enactment of this Act, amend regulations—

(1) under the Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.) to prohibit the driver of a motor vehicle transporting hazardous materials in commerce, and

(2) under the Motor Carrier Safety Act of 1984 (49 App. U.S.C. 2501 et seq.) to prohibit the driver of any commercial motor vehicle, from driving the motor vehicle onto a highway-rail grade crossing without having sufficient space to drive completely through the crossing without stopping.

SEC. 12. DRIVER'S RECORD OF DUTY STATUS.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall promulgate regulations amending section 395.8(k) of title 49, Code of Federal Regulations, to require that any supporting document bearing on the record of duty status of a driver who operates a commercial motor vehicle—

(1) be retained, by the motor carrier using such driver, for at least 6 months following its receipt of such document; and

(2) include information identifying the driver and vehicle related to the document.

(b) DEFINITION.—In this section, the term "supporting document" means any electronic or paper document or record generated in the normal course of business, in the provision of transportation by commercial motor vehicle, that could be used by a safety inspector or motor carrier to verify the accuracy of entries in a driver's record of duty status, including trip reports, pay slips, bills of lading or shipping papers, and receipts for fuel, lodging, and tolls.

SEC. 13. SAFETY PERFORMANCE HISTORY OF NEW DRIVERS.

(a) AMENDMENT OF REGULATIONS.—Within 18 months after the date of enactment of this Act, the Secretary of Transportation shall amend section 391.23 of title 49, Code of Federal Regulations, to—

(1) specify the safety information that must be sought under that section by a motor carrier with respect to a driver;

(2) require that such information be requested from former employers and that former employers furnish the requested information within 30 days after receiving the request; and

(3) ensure that the driver to whom such information applies has a reasonable opportunity to review and comment on the information.

(b) SAFETY INFORMATION.—The safety information required to be specified under subsection (a)(1) shall include information on—

(1) any motor vehicle accidents in which the driver was involved during the preceding 3 years;

(2) any failure of the driver, during the preceding 3 years, to undertake or complete a rehabilitation program under section 12020 of the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701) after being found to have used, in violation of law or Federal regulation, alcohol or a controlled substance;

(3) any use by the driver, during the preceding 3 years, in violation of law or Federal regulation, of alcohol or a controlled substance subsequent to completing such a rehabilitation program; and

(4) any other matters determined by the Secretary of Transportation to be appropriate and useful for determining the driver's safety performance.

(c) FORMER EMPLOYER.—For purposes of this section, a former employer is any person who employed the driver in the preceding 3 years.

SEC. 14. RETENTION OF SHIPPING PAPERS.

(a) AMENDMENT.—Section 105(g) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1804 (g)) is amended by adding at the end the following new paragraph:

"(5) RETENTION OF PAPERS.—After the hazardous material to which a shipping paper provided to a carrier under paragraph (1) applies is no longer in transportation, the person who provided the shipping paper and the carrier required to maintain it under paragraph (1) shall retain the paper at their respective principal places of business. Such person and carrier shall, upon request, make the shipping paper available to a Federal, State, or local government agency at reasonable times and locations.".

(b) REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall issue regulations implementing the requirements of paragraph (5) of section 105(g) of the Hazardous Materials Transportation Act, as added by subsection (a) of this section.

SEC. 15. TOLL FREE NUMBER FOR REPORTING.

The Secretary of Transportation shall establish a toll free "800" telephone number for transporters of hazardous materials and other individuals to report to the Secretary possible violations of the Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.) or any order or regulation issued under the Act.

SEC. 16. TECHNICAL CORRECTIONS.

(a) AMENDMENTS RELATING TO PACKAGING.—(1) Sections 103(5)(B), 103(6)(A)(iii), and 109(c) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1802(5)(B), 1802(6)(A)(iii), 1808(c)) are each amended by striking "packages" and inserting in lieu thereof "packaging".

(2) Sections 105(a)(3), 105(a)(4)(B)(v), 110(a)(1), and 120 of the Hazardous Materials Transportation Act (49 App. U.S.C. 1804(a)(3), 1804(a)(4)(B)(v), 1809(a)(1), 1818) are each amended by striking "a package" and inserting in lieu thereof "packaging".

(3) Sections 106(c)(1)(B) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1805(c)(1)(B)) is amended—

(A) by striking "a bulk package" and inserting in lieu thereof "bulk packaging"; and

(B) by striking "the package" and inserting in lieu thereof "the bulk packaging".

(b) OTHER.—(1) Section 105(a)(3) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1804(a)(3)) is amended by inserting "hazardous materials" immediately after "shipped".

(2) Section 105(e)(1) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1804(e)(1)) is amended by striking "or package" and inserting in lieu thereof ", package, or packaging (or a component of a container, package, or packaging)".

SEC. 17. EXEMPTION FROM HOURS OF SERVICE REQUIREMENTS.

The Secretary of Transportation shall exempt farmers and retail farm suppliers from the hours of service requirements contained in section 395.3 of title 49, Code of Federal Regulations, when such farmers and retail farm suppliers are transporting farm supplies for agricultural purposes within a 50-mile radius of their distribution point during the crop-planting season.

By Mr. LEAHY:

S. 1646. A bill to amend the Food Stamp Act of 1977 to reduce food stamp fraud and improve the Food Stamp Program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FOOD STAMP FRAUD REDUCTION ACT OF 1993

Mr. LEAHY. Mr. President, today I am introducing a bill which should greatly reduce the potential for food stamp fraud. The bill is based on a report issued by the Office of Technology Assessment of the U.S. Congress. The report is entitled "Making Government Work."

OTA has spent over a year studying the opportunities offered by the electronic transfer of food stamp benefits—rather than using paper coupons.

Under the current program, USDA prints more than 375 million food stamp booklets per year, which amounts to 2.5 billion paper food coupons for food stamp households to use at retail stores.

These coupons are used once, except for one dollar coupons printed, which may be used to make change. The 2.5 billion coupons per year are printed, mailed, or otherwise issued to participants, shipped, counted, canceled, redeemed through the banking system by Treasury, shipped again, stored, and then destroyed. That cost can reach up to $60 million per year in total costs, Federal and State.

Issuing coupons is expensive. Some States mail them out each month and pay the postage for which they receive a partial Federal reimbursement. Some States hire staff to issue coupons at offices. Coupons are lost or stolen in the mail.

Also, food stamp recipients can get cash change in food stamp transactions if the cash does not exceed one dollar per purchase. This allows food stamp benefits to be diverted to the purchase of nonfood items.

In addition, food stamp coupons can be the subject of trafficking or outright theft.

The OTA report notes, on page 98, by eliminating cash change for food stamps and reducing the opportunity for trafficking in benefits, that a national electronic benefits transfer [EBT] system might reduce levels of food stamp benefit diversion by as much as 80 percent.

Let me repeat that—a national EBT system might reduce levels of food stamp benefit diversion by as much as 80 percent.

However, OTA issued a warning. OTA stated that Congress and the President need to act quickly on EBT if opportunities for integrating services and capturing economies of scale are to be realized.

OTA made several very important determinations regarding how this electronic benefits transfer [EBT] of food stamp benefits can greatly reduce fraud and assist participants.

OTA determined that EBT promises to reduce theft and fraud, as well as reduce errors, reduce paperwork, save time, and reduce delays and the stigma attached to food stamp coupons.

OTA stated that EBT can yield significant cost savings to retailers, recipients, financial institutions, and Government agencies. They also concluded that recipients, retailers, and financial institutions, and local program administrators who have tried EBT prefer it to coupons.

Food stamp recipients are also winners under an EBT system. OTA found that using EBT provided an added sense of dignity and security to food stamp families.

The bill calls for the Secretary of Agriculture, in coordination with the Secretary of Treasury and the Secretary of Health and Human Services, to design and implement a nationally coordinated feasibility test to more fully evaluate technological options, including online and offline EBT technologies, and hybrid approaches, for replacing paper food stamp coupons with EBT systems.

This test will examine the advantages and disadvantages of centralized, as opposed to decentralized, EBT systems and determine the degree to which a nationwide EBT system can be integrated with existing commercial networks. The study will also ascertain the likely impact of a nationwide EBT system on recipients, the State agencies and on local food stamp offices.

In addition, the test will examine the likely impact of a nationwide EBT system on the banking and retail food industries and examine ways to use laser scanner technology with EBT technology so that only eligible food items can be purchased by food stamp participants in those stores which use scanners.

Under the bill, the Secretary of Agriculture will also report to the Congress on additional ways to ensure the confidentiality of personal information in EBT systems and the applicability of the Privacy Act of 1974 to EBT systems. The Secretary will look at the need for interagency EBT regulations to maximize cost savings of EBT technology for Federal programs and the need for the National Institute of Standards and Technology to develop standards for card and terminal manufacture and for other aspects of EBT technology.

This report will also set forth the best approaches to maximize the use of existing point of sale terminals and existing EBT systems to reduce the costs of implementing a nationwide EBT system, as well as to identify the best approach to maximize the use of EBT systems for multiple Federal benefit programs.

The Secretary of Agriculture will also have to determine whether using the existing Food and Nutrition Service regions in the creation of a national EBT system would be cost-effective. In making this determination the Secretary shall explore other regional configurations of State agencies.

Mr. President: I am convinced that the single most important thing we can do to reduce fraud in the Food Stamp Program is to eliminate the use of coupons. My bill does that. Except for certain circumstances where EBT might be impossible to use, for example at farmers' markets authorized to participate in the Food Stamp Program, coupons would be eliminated 3 years after enactment.

We can essentially eliminate illegal trafficking in coupons. We can better assure that benefits go to needy families.

Plain and simply, I am sick and tired of petty thugs ripping off the Food Stamp Program. This bill will go a long way toward fixing that problem.

Will there be fraud under an EBT system. Where there is a will, there is a way. However, OTA notes that fraud, on balance, should be greatly reduced under EBT.

The "Making Government Work" study released today by OTA confirms the need to take control of a problem that we can fix. I have been working on this issue for years and have introduced legislation in the past to encourage use of EBT. Now my bill mandates EBT. I know it is the right thing to do.

The bill will eliminate food stamp coupons nationwide in 3 years with certain exceptions for farmers' markets, rural areas, or States which have difficulty in meeting the implementation deadline.

A personal security number will be assigned to each EBT card to help reduce misuse. This system will of course eliminate cash change since the system will store the declining balance of benefits allowed to be used down to the last penny.

In some stores with laser scanners, the system has the potential of allowing the purchase of only approved food items.

Prior to the conversion to EBT, the ability of States to voluntarily implement EBT systems is enhanced by requiring USDA to take into account the potential reductions in fraud associated with EBT.

Mr. President, I am very pleased that this administration is fully committed to the promise of EBT. The Vice President is leading the charge regarding using EBT to reduce Federal costs and increase Federal services.

I know that Secretary Mike Espy and Assistant Secretary Ellen Haas are rapidly moving forward in this area. They are convinced of the value of EBT systems. In my view, legislation is needed to give them the authority to move full speed ahead. Under this bill, most of the key decisions are entrusted to the Secretary of Agriculture or to the States within legislatively set time limits.

I look forward to working with Secretary Espy and with Assistant Secretary Ellen Haas regarding this issue.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at the conclusion of my remarks.

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

S. 1646

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 "Food Stamp Fraud Reduction Act of 1993".

SEC. 2. FINDINGS.

(a) MAKING GOVERNMENT WORK FINDINGS.—In the findings of the report entitled "Making Government Work" regarding the electronic benefits transfer of food stamps and other government benefits, the Office of Technology Assessment found that—

(1) by eliminating cash change and reducing the opportunity for trafficking in benefits, a nationwide electronic benefits transfer system might reduce levels of food stamp benefit diversion by as much as 80 percent;

(2) electronic benefits transfer is likely to reduce theft and fraud, as well as reduce errors, paperwork, delays, and the stigma attached to food stamp coupons;

(3) Congress and the President need to act quickly on electronic benefits transfer if opportunities for integrating services and capturing economies of scale are to be realized;

(4) electronic benefits transfer is proven, reliable, and easy to use;

(5) electronic benefits transfer can yield significant cost savings to retailers, recipients, financial institutions, and government agencies;

(6) recipients, retailers, financial institutions, and local program administrators who have tried electronic benefits transfer prefer electronic benefits transfer to coupons; and

(7) food stamp recipients using electronic benefits transfer experience an added sense of dignity and security.

(b) OTHER FINDINGS.—Congress finds that—

(1) the food stamp program prints more than 375,000,000 food stamp booklets per year, including 2,500,000,000 paper coupons;

(2) food stamp coupons (except for $1 coupons) are used once, and each 1 of the over 2,000,000,000 coupons per year is then counted, canceled, shipped, redeemed through the banking system by the Secretary of the Treasury, stored, and destroyed;

(3) food stamp recipients can receive cash change in food stamp transactions if the cash does not exceed $1 per purchase; and

(4) the printing, distribution, handling, and redemption of coupons costs at least $60,000,000 per year

SEC. 3. ELIMINATION OF FOOD STAMP COUPONS.

Section 4 of the Food Stamp Act of 1977 (7 U.S.C. 2013) is amended by adding at the end the following new subsection:

"(d)(1) Except as provided in paragraph (2) and notwithstanding any other provision of this Act, effective beginning on the date that is 3 years after the date of enactment of this subsection, no State may participate in the food stamp program if the State issues or uses food stamp coupons to carry out the program.

"(2) Paragraph (1) shall not apply to the extent that—

"(A) a use of food stamp coupons is specifically authorized by section 7; or

"(B) the Secretary grants a waiver to a State to delay implementation of electronic benefits transfer for good cause shown by the State.".

SEC. 4. NATIONWIDE ELECTRONIC BENEFITS TRANSFER FEASIBILITY TEST.

(a) IN GENERAL.—The Secretary of Agriculture, in coordination with the Secretary of the Treasury and the Secretary of Health and Human Services, shall conduct a nationwide coordinated feasibility test to—

(1) more fully evaluate technological options, including on-line, off-line, and hybrid electronic benefits transfer technologies, for replacing paper food stamp coupons with electronic benefits transfer systems;

(2) examine the advantages and disadvantages of centralized, as opposed to decentralized, electronic benefits transfer systems;

(3) determine the degree to which a nationwide electronic benefits transfer system could be integrated with commercial networks;

(4) ascertain the likely impact of a nationwide electronic benefits transfer system on recipients, State agencies, and local food stamp offices;

(5) examine the likely impact of a nationwide electronic benefits transfer system on the banking and retail food industries; and

(6) examine means of using laser scanner technology with electronic benefits transfer technology so that only eligible food items can be purchased by food stamp participants in stores that use scanners.

(b) INITIAL REPORT.—Not later than 290 days after the date of enactment of this Act, the Secretary of Agriculture, in coordination with the Secretary of the Treasury and the Secretary of Health and Human Services, shall report to the appropriate committees of Congress on—

(1) means of ensuring the confidentiality of personal information in electronic benefits transfer systems and the applicability of section 552a of title 5, United States Code, to electronic benefits transfer systems;

(2) the need for regulations to coordinate the electronic benefits transfer systems of agencies to maximize the cost savings of electronic benefits transfer technology for Federal programs;

(3) the need for the National Institute of Standards and Technology to develop standards for card and terminal manufacture and standards for other aspects of electronic benefits transfer technology;

(4) the best approaches for maximizing the use of then current point of sale terminals and systems to reduce the costs of implementing a nationwide electronic benefits transfer system; and

(5) the best approaches for maximizing the use of electronic benefits transfer systems for multiple Federal benefit programs so as to achieve the highest cost savings possible through the implementation of electronic benefits transfer systems.

(c) TWO-YEAR REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Agriculture shall report to the appropriate committees of Congress on the results of the feasibility test conducted under subsection (a).

SEC. 5. IMPLEMENTATION OF NATIONWIDE ELECTRONIC BENEFITS TRANSFER SYSTEM.

Section 7 of the Food Stamp Act of 1977 (7 U.S.C. 2016) is amended—

(1) in subsection (i)(2)(A), by inserting after "startup costs" the following: "less estimated savings achieved by reductions in fraud and other diversions of benefits"; and

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

"(j)(1)(A) The Secretary shall coordinate with, and assist, each State agency in the conversion from use of coupons to electronic benefits transfer technology.

"(B) The Secretary shall assist stores located in very rural areas, stores without access to electricity or regular telephone service, and farmers' markets that are authorized to accept coupons to continue to participate in the food stamp program after the conversion to electronic benefits transfer technology.

"(C) The Secretary may permit the use of coupons or other means of providing benefits to food stamp households that use stores or markets described in subparagraph (B).

"(D) The Secretary shall waive the application of any other provision of this Act, to the extent the waiver is necessary to carry out subparagraphs (B) and (C).

"(2) Not later than 18 months after the date of enactment of Food Stamp Fraud Reduction Act of 1993, the Secretary shall—

"(A) determine whether using the then current Food and Nutrition Service regions, or other regional configurations of State agencies, would be the most cost-effective means of establishing a nationwide electronic benefits transfer system; and

"(B) report to the appropriate committees of Congress on the determination made under subparagraph (A).

"(3) Not later than 30 months after the date of enactment of Food Stamp Fraud Reduction Act of 1993, the Secretary shall publish proposed regulations setting forth the rules and procedures for a nationwide electronic benefits transfer system to carry out the food stamp program.

"(4)(A) Not later than 3 years after the date of enactment of Food Stamp Fraud Reduction Act of 1993, subject to subparagraph (B), the Secretary shall require, by regulation, a nationwide electronic benefits transfer system to carry out the food stamp program.

"(B) In establishing the system required under subparagraph (A), the Secretary—

"(i) shall take into account the results of the test, determination, and reports made under section 4 of the Food Stamp Fraud Reduction Act of 1993 and paragraph (2);

"(ii) may establish a national, regional, or State system;

"(iii) may use on-line, off-line, or hybrid electronic benefits transfer technologies;

"(iv) may waive the application of any other provision of this Act to the extent the waiver is necessary to carry out this paragraph, except that household eligibility and benefit levels may not be reduced as a result of a waiver; and

"(v) shall ensure that a personal identification number is issued with each electronic benefits transfer card in order to help protect the integrity of the food stamp program.

"(C) The regulations required under subparagraph (A) shall set forth standards regarding—

"(i) the required level of recipient protection regarding privacy, ease of use, and access to and service in retail food stores;

"(ii) the terms and conditions of participation by retail food stores, financial institutions, and other appropriate parties;

"(iii) system security;

"(iv) system transaction interchange, reliability, and processing speeds;

"(v) financial accountability;

"(vi) the required testing of system operations prior to implementation; and

"(vii) rules prohibiting store participation unless any special equipment necessary to permit households to purchase food with the benefits issued under this Act is operational—

"(I) in the case of a participating retail food store in which benefits are used to purchase 15 percent or more of the total dollar amount of food sold by the store (as determined by the Secretary), at all registers in the store; and

"(II) in the case of other participating stores, at a sufficient number of registers to provide service that is comparable to service provided individuals who are not members of food stamp households, as determined by the Secretary.

"(D) Administrative costs incurred in connection with activities under this subsection shall be eligible for reimbursement in accordance with section 16, subject to the limitations in section 16(g).".

SEC. 6. CONFORMING AMENDMENTS.

(a) Section 3 of the Food Stamp Act of 1977 (42 U.S.C. 2012) is amended—

(1) in subsection (a), by striking "coupons" and inserting "benefits";

(2) in the first sentence of subsection (c), by striking "authorization cards" and inserting "allotments";

(3) in subsection (d), by striking "the provisions of this Act" and inserting "section 7(g)";

(4) in subsection (e)—

(A) by striking "Coupon issuer" and inserting "Benefit issuer"; and

(B) by striking "coupons" and inserting "benefits";

(5) in the last sentence of subsection (i), by striking "coupons" and inserting "allotments"; and

(6) by adding at the end the following new subsection:

"(u) 'Electronic benefits transfer card' means a card issued to a household participating in the program that is used to purchase food.".

(b) Section 4(a) of such Act (7 U.S.C. 2013(a)) is amended—

(1) in the first and second sentences, by striking "coupons" each place it appears and inserting "electronic benefits transfer cards or coupons"; and

(2) by striking the third sentence and inserting the following new sentence: "The Secretary, through the facilities of the Treasury of the United States, shall reimburse the stores for food purchases made with electronic benefits transfer cards or coupons provided under this Act.".

(c) The first sentence of section 6(b)(1) of such Act (7 U.S.C. 2015(b)(1)) is amended—

(1) by striking "coupons or authorization cards" and inserting "electronic benefits transfer cards, coupons, or authorization cards"; and

(2) in clauses (ii) and (iii), by inserting "or electronic benefits transfer cards" after "coupons" each place it appears.

(d) Section 7 of such Act (7 U.S.C. 2016) is amended—

(1) by striking the section heading and inserting the following new section heading:

"ISSUANCE AND USE OF ELECTRONIC BENEFITS TRANSFER CARDS OR COUPONS";

(2) in subsection (a), by striking "Coupons" and all that follows through "necessary, and" and inserting "Electronic benefits transfer cards or coupons";

(3) in subsection (b), by striking "Coupons" and inserting "Electronic benefits transfer cards";

(4) in subsection (f)—

(A) by striking "issuance of coupons" and inserting "issuance of electronic benefits transfer cards or coupons";

(B) by striking "coupon issuer" and inserting "electronic benefits transfer or coupon issuer"; and

(C) by striking "coupons and allotments" and inserting "electronic benefits transfer cards, coupons, and allotments";

(5) by striking subsections (g) through (i); and

(6) by redesignating subsection (j) (as added by section 5(2)) as subsection (g).

(e) Section 8(b) of such Act (7 U.S.C. 2017(b)) is amended by striking "coupons" and inserting "electronic benefits transfer cards or coupons".

(f) Section 9 of such Act (7 U.S.C. 2018) is amended—

(1) in subsections (a) and (b), by striking "coupons" each place it appears and inserting "coupons, or accept electronic benefits transfer cards,"; and

(2) in subsection (a)(1)(B), by striking "coupon business" and inserting "electronic benefits transfer cards and coupon business".

(g) The first sentence of section 10 of such Act (7 U.S.C. 2019) is amended—

(1) by inserting after "provide for" the following: "reimbursing stores for purchases made with electronic benefits transfer cards and for"; and

(2) by inserting after "food coupons" the following: "or use their members' electronic benefits transfer cards".

(h) Section 11 of such Act (7 U.S.C. 2020) is amended—

(1) in the first sentence of subsection (a), by striking "coupons" and inserting "electronic benefits transfer cards or coupons,";

(2) in subsection (e)—

(A) in paragraph (2)—

(i) by striking "a coupon allotment" and inserting "an allotment"; and

(ii) by striking "issuing coupons" and inserting "issuing electronic benefits transfer cards or coupons";

(B) in paragraph (7), by striking "coupon issuance" and inserting "electronic benefits transfer card or coupon issuance";

(C) in paragraph (8)(C), by striking "coupons" and inserting "benefits";

(D) in paragraph (9), by striking "coupons" each place it appears and inserting "electronic benefits transfer cards or coupons";

(E) in paragraph (11), by striking "in the form of coupons";

(F) in paragraph (16), by striking "coupons" and inserting "electronic benefits transfer card or coupons";

(G) in paragraph (20)—

(i) by striking "their coupons" and inserting "the electronic benefits transfer cards or coupons of the households";

(ii) by striking "a coupon issuer" and inserting "an electronic benefits transfer card or a coupon issuer"; and

(iii) by striking "face value of any coupons" and inserting "value of any benefits or coupons";

(H) in paragraph (21), by striking "coupons" and inserting "electronic benefits transfer cards or coupons";

(I) in paragraph (24), by striking "coupons" and inserting "benefits"; and

(J) in paragraph (25), by striking "coupons" each place it appears and inserting "electronic benefits transfer cards or coupons"; and

(3) in subsection (h), by striking "face value of any coupon or coupons" and inserting "value of any benefits or coupons".

(i) Section 12 of such Act (7 U.S.C. 2021) is amended—

(1) in subsection (b)(3), by striking "coupons" each place it appears and inserting "electronic benefits transfer cards or coupons";

(2) in subsection (d)—

(A) in the first sentence—

(i) by inserting after "redeem coupons" the following: "and to accept electronic benefits transfer cards"; and

(ii) by striking "value of coupons" and inserting "value of benefits and coupons"; and

(B) in the third sentence, by striking "coupons" each place it appears and inserting "coupons or benefits"; and

(3) in the first sentence of subsection (f)—

(A) by inserting after "to accept and redeem food coupons" the following: "electronic benefits transfer cards, or to accept and redeem food coupons,"; and

(B) by inserting before the period at the end the following: "or program benefits".

(j) Section 13 of such Act (7 U.S.C. 2022) is amended by striking "coupons" each place it appears and inserting "benefits".

(k) Section 15 of such Act (7 U.S.C. 2024) is amended—

(1) in subsection (a), by striking "issuance or presentment for redemption" and inserting "issuance, presentment for redemption, or use of electronic benefits transfer cards or";

(2) in the first sentence of subsection (b)(1)—

(A) by inserting after "coupons, authorization cards," each place it appears the following: "electronic benefits transfer cards,"; and

(B) by striking "coupons or authorization cards" each place it appears and inserting the following: "coupons, authorization cards, or electronic benefits transfer cards"; and

(3) in the first sentence of subsection (g), by inserting after "coupons, authorization cards," the following: "electronic benefits transfer cards,".

(l) Section 17 of such Act (7 U.S.C. 2026) is amended—

(1) in the last sentence of subsection (a)(2), by striking "coupon" and inserting "benefit";

(2) in subsection (d)(1)(B), by striking "coupons" each place it appears and inserting "benefits";

(3) by striking subsection (f); and

(4) by redesignating subsections (g) through (k) as subsections (f) through (j), respectively.

(m) Section 21 of such Act (7 U.S.C. 2030) is amended—

(1) by striking "coupons" each place it appears (other than in subsections (b)(2)(A)(ii) and (d)) and inserting "benefits";

(2) in subsection (b)(2)(A)(ii), by striking "coupons" and inserting "electronic benefits transfer cards or coupons"; and

(3) in subsection (d)—

(A) in paragraph (2), by striking "Coupons" and inserting "Benefits"; and

(B) in paragraph (3), by striking "in food coupons".

(n) Section 22 of such Act (7 U.S.C. 2031) is amended—

(1) in subsection (b)—

(A) in paragraph (3)(D)—

(i) in clause (ii), by striking "coupons" and inserting "benefits"; and

(ii) in clause (iii), by striking "coupons" and inserting "electronic benefits transfer benefits";

(B) in paragraph (9), by striking "coupons" and inserting "benefits";

(C) in paragraph (10)(B)—

(i) in the second sentence of clause (i), by striking "Food coupons" and inserting "Program benefits"; and

(ii) in clause (ii)—

(I) in the second sentence, by striking "Food coupons" and inserting "Benefits"; and

(II) in the third sentence, by striking "food coupons" each place it appears and inserting "benefits";

(2) in subsection (d), by striking "coupons" each place it appears and inserting "benefits";

(3) in subsection (g)(1)(A), by striking "coupon"; and

(4) in subsection (h), by striking "food coupons" and inserting "benefits".

(o) Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting "electronic benefits transfer cards or" before "coupons having".

(p) This section and the amendments made by this section shall become effective on the date that the Secretary of Agriculture implements a nationwide electronic benefits transfer system in accordance with section 7 of the Food Stamp Act of 1977 (7 U.S.C. 2016) (as amended by this Act).

ADDITIONAL COSPONSORS

S. 155

At the request of Mr. DASCHLE, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 155, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain amounts received by a cooperative telephone company.

S. 426

At the request of Mr. SHELBY, the name of the Senator from Mississippi [Mr. COCHRAN] 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 Florida [Mr. GRAHAM] 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. 993

At the request of Mr. KEMPTHORNE, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of S. 993, a bill to end the practice of imposing unfunded Federal mandates on States and local governments and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations.

S. 1329

At the request of Mr. D'AMATO, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1329, a bill to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974.

S. 1501

At the request of Mr. MCCAIN, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1501, a bill to repeal certain provisions of law relating to trading with Indians.

S. 1527

At the request of Mr. RIEGLE, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1527, a bill to provide for fair trade in financial services.

S. 1583

At the request of Mr. D'AMATO, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 1583, a bill to impose comprehensive economic sanctions against Iran.

S. 1618

At the request of Mr. MCCAIN, the name of the Senator from Colorado

[Mr. CAMPBELL] was added as a cosponsor of S. 1618, a bill to establish Tribal Self-Governance, and for other purposes.

S. 1622

At the request of Mr. BREAUX, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of 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.

S. 1629

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1629, a bill to amend the Public Health Service Act to provide for expanding and intensifying activities of the National Institute of Arthritis and Musculoskeletal and Skin Diseases with respect to lupus, and for other purposes.

SENATE JOINT RESOLUTION 55

At the request of Mr. HATCH, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of Senate Joint Resolution 55, a joint resolution to designate the periods commencing on November 28, 1993, and ending on December 4, 1993, and commencing on November 27, 1994, and ending on December 3, 1994, as "National Home Care Week."

SENATE JOINT RESOLUTION 148

At the request of Mr. BROWN, the names of the Senator from Wyoming [Mr. SIMPSON], and the Senator from Texas [Mrs. HUTCHISON] were added as cosponsors of Senate Joint Resolution 148, a joint resolution proposing an amendment to the Constitution of the United States barring Federal unfunded mandates to the States.

SENATE CONCURRENT RESOLUTION 45

At the request of Mr. D'AMATO, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of Senate Concurrent Resolution 45, a concurrent resolution relating to the Republic of China on Taiwan's participation in the United Nations.

SENATE RESOLUTION 152

At the request of Mr. NICKLES, the names of the Senator from Indiana [Mr. COATS], and the Senator from Delaware [Mr. ROTH] were added as cosponsors of Senate Resolution 152, a resolution to amend the Standing Rules of the Senate to prohibit the consideration of any retroactive tax increase unless three-fifths of all Senators duly chosen and sworn waive the prohibition by roll call vote.

SENATE RESOLUTION 160

At the request of Mr. DURENBERGER, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Resolution 160, a resolution expressing the sense of the Senate regarding the October 21, 1993, attempted coup d'etat in Burundi, and for other purposes.

SENATE RESOLUTION 162

At the request of Mr. LAUTENBERG, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Resolution 162, a resolution relating to the treatment of Hugo Princz, a United States citizen by the Federal Republic of Germany.

AMENDMENT NO. 1113

At the request of Mr. WOFFORD his name was added as a cosponsor of amendment No. 1113 proposed to S. 1607, a bill to control and prevent crime.

AMENDMENTS SUBMITTED

VIOLENT CRIME CONTROL AND PREVENTION ACT OF 1993

WELLSTONE AMENDMENT NO. 1123

(Ordered to lie on the table.)

Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill (S. 1607) a bill to control and prevent crime; as follows:

At the appropriate place insert the following:

TITLE —DOMESTIC VIOLENCE

SEC. 1. SHORT TITLE.

This title may be cited as the "Domestic Violence Firearm Prevention Act".

SEC. 2. FINDINGS—

The Congress finds that—

(1) domestic violence is the leading cause of injury to women in the United States between the ages of 15 and 44;

(2) firearms are used by the abuser in 7 percent of domestic violence incidents; and

(3) individuals with a history of domestic abuse should not have easy access to firearms.

SEC 3. PROHIBITION AGAINST DISPOSAL OF FIREARMS TO, OR RECEIPT OF FIREARMS BY, PERSONS WHO HAVE COMMITTED DOMESTIC ABUSE.

(a) PROHIBITION AGAINST DISPOSAL OF FIREARMS.—Section 922(d) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; or"; and

(3) by inserting after paragraph (7) the following new paragraph:

"(8)(A) has been convicted in any court of the United States of an offense that—

"(i) has as an element the use, attempted use, or threatened use of physical force against a person who is a spouse, former spouse, domestic partner, child, or former child of the person; or

"(ii) by its nature, involves a substantial risk that physical force against a person who is a spouse, former spouse, domestic partner, child, or former child of the person may be used in the course of committing the offense; or

"(B) is required, pursuant to an order issued by a court of the United States in a case involving the use, attempted use, or threatened use of physical force against a person described in subparagraph (A), to maintain a minimum distance from that person.".

(b) PROHIBITION AGAINST RECEIPT OF FIREARMS.—Section 922(g) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by inserting "or" at the end of paragraph (7); and

(3) by inserting after paragraph (7) the following new paragraph:

"(8)(A) has been convicted in any court of the United States of an offense that—

"(i) has as an element the use, attempted use, or threatened use of physical force against a person who is a spouse, former spouse, domestic partner, child, or former child of the person; or

"(ii) by its nature, involves a substantial risk that physical force against a person who is a spouse, former spouse, domestic partner, child, or former child of the person may be used in the course of committing the offense; or

"(B) is required, pursuant to an order issued by a court of the United States in a case involving the use, attempted use, or threatened use of physical force against a person described in subparagraph (A), to maintain a minimum distance from that person;".

WELLSTONE (AND OTHERS) AMENDMENT NO. 1124

Mr. WELLSTONE (for himself, Mr. DODD, and Mr. INOUYE) proposed an amendment to the bill S. 1607, supra; as follows:

At the appropriate place in the bill insert the following:

TITLE—

SECTION 01. SHORT TITLE.

This title may be cited as the "Child Safety Act".

SEC. 02. FINDINGS.

Congress finds the following:

(1) The problem of family violence does not necessarily cease when the victimized family is legally separated, divorced, or otherwise not sharing a household. During separation and divorce, family violence often escalates, and child custody and visitation become the new forum for the continuation of abuse.

(2) Some perpetrators use the children as pawns to control the abused party after the couple is separated.

(3) Every year an estimated 1,000 to 5,000 children are killed by their parents in the United States.

(4) In 1988, the Department of Justice reported that 354,100 children were abducted by family members who violated custody agreements or decrees. Most victims were children from ages 2 to 11 years.

(5) Approximately 160,000 children are seriously injured or impaired by abuse or neglect each year.

(6) Studies by the American Humane Association indicate that reports of child abuse and neglect have increased by over 200 percent from 1976 to 1986.

(7) Approximately 90 percent children in homes in which their mothers are abused witness the abuse.

(8) Data indicates that women and children are at elevated risk for violence during the process of and after separation.

(9) Fifty to 70 percent of men who abuse their spouses or partners also abuse their children.

(10) Up to 75 percent of all domestic assaults reported to law enforcement agencies were inflicted after the separation of the couples.

(11) In one study of spousal homicide, over half of the male defendants were separated from their victims.

(12) Seventy-three percent of battered women seeking emergency medical services do so after separation.

SEC. 03. PURPOSE.

The purpose of this Act is to authorize funding to enable supervised visitation centers to provide the following:

(1) Supervised visitation in cases where there is documented sexual, physical or emotional abuse as determined by the appropriate court.

(2) Supervised visitation in cases where there is suspected or elevated risk of sexual, physical or emotional abuse, or where there have been threats of parental abduction of the child.

(3) Supervised visitation for children who have been placed in foster homes as result of abuse.

(4) An evaluation of visitation between parents and children for child protection social services to assist such service providers in making determinations of whether the children should be returned to a previously abusive home.

(5) A safe location for custodial parents to temporarily transfer custody of their children with noncustodial parents, or to provide a protected visitation environment, where there has been a history of domestic violence or an order for protection is involved.

(6) An additional safeguard against the child witnessing abuse or a safeguard against the injury or death of a child or parent.

(7) An environment for families to have healthy interaction activities, quality time, non-violent memory building experiences during visitation to help build the parent/child relationship.

(8) Parent and child education and support groups to help parents heal and learn new skills, and to help children heal from past abuse.

SEC. 04. DEMONSTRATION GRANTS FOR SUPERVISED VISITATION CENTERS.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter referred to in this Act as the "Secretary") is authorized to award grants to and enter into contracts and cooperative agreements with public or nonprofit private entities to assist such entities in the establishment and operation of supervised visitation centers.

(b) CONSIDERATIONS.—In awarding grants, contracts and agreements under subsection (a), the Secretary shall take into account—

(1) the number of families to be served by the proposed visitation center to be established under the grant, contract or agreement;

(2) the extent to which supervised visitation centers are needed locally;

(3) the relative need of the applicant; and

(4) the capacity of the applicant to make rapid and effective use of assistance provided under the grant, contract or agreement.

(c) USE OF FUNDS.—

(1) IN GENERAL.—Amounts provided under a grant, contract or cooperative agreement awarded under this section shall be used to establish supervised visitation centers and for the purposes described in section 03. In using such amounts, grantees shall target the economically disadvantaged and those individuals, who could not otherwise afford such visitation services. Other individuals may be permitted to utilize the services provided by the center on a fee basis.

(2) COSTS.—To the extent practicable, the Secretary shall ensure that, with respect to recipients of grants, contracts or agreements under this section, the perpetrators of the family violence, abuse or neglect will be responsible for any and all costs associated with the supervised visitation undertaken at the center.

SEC. 05. DEMONSTRATION GRANT APPLICATION.

(a) IN GENERAL.—A grant, contract of cooperative agreement may not be made or entered into under this Act unless an application for such grant, contract or cooperative agreement has been submitted to and approved by the Secretary.

(b) APPROVAL.—Grants, contracts and cooperative agreements under this Act shall be awarded in accordance with such regulations as the Secretary may promulgate. At a minimum, to be approved by the Secretary under this section an application shall—

(1) demonstrate that the applicant has recognized expertise in the area of family violence and a record of high quality service to victims of family violence; and

(2) be submitted from an entity located in a State where State law requires the courts to consider evidence of violence in custody decisions.

SEC. 06. EVALUATION OF DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Not later than 30 days after the end of each fiscal year, a recipient of a grant, contract or cooperative agreement under this Act shall prepare and submit to the Secretary a report that contains information concerning—

(1) the number of families served per year;

(2) the number of families served per year categorized by—

(A) families who require that supervised visitation because of child abuse only;

(B) families who require supervised visitation because of a combination of child abuse and domestic violence; and

(C) families who require supervised visitation because of domestic violence only;

(3) the number of visits per family in the report year categorized by—

(A) supervised visitation required by the courts;

(B) supervised visitation based on suspected or elevated risk of sexual, physical, or emotional abuse, or threats of parental abduction of the child that is not court mandated;

(C) supervised visitation that is part of a foster care arrangement; and

(D) supervised visitation because of an order of protection;

(4) the number of supervised visitation arrangements terminated because of violations of visitation terms, including violence;

(5) the number of protective temporary transfers of custody during the report year;

(6) the number of parental abduction cases in a judicial district using supervised visitation services, both as identified in criminal prosecution and custody violations;

(7) the number of safety and security problems that occur during the report year;

(8) the number of families who are turned away because the center cannot accommodate the demand for services;

(9) the process by which children or abused partners will be protected during visitations, temporary custody transfers and other activities for which the supervised visitation centers are created; and

(10) any other information determined appropriate in regulations promulgated by the Secretary.

(b) EVALUATION.—In addition to submitting the reports required under subsection (a), an entity receiving a grant, contract or cooperative agreement under this Act shall have a collateral agreement with the court, the child protection social services division of the State, and local domestic violence agencies or State and local domestic violence coalitions to evaluate the supervised visitation center operated under the grant, contract or agreement. The entities conducting such evaluations shall submit a narrative evaluation of the center to both the center and the grantee.

(c) DEMONSTRATION OF NEED.—The recipient of a grant, contract or cooperative agreement under this Act shall demonstrate, during the first 3 years of the project operated under the grant, contract or agreement, the need for continued funding.

SEC. 07. SPECIAL GRANTS TO STUDY THE EFFECT OF SUPERVISED VISITATION ON SEXUALLY ABUSED OR SEVERELY PHYSICALLY ABUSED CHILDREN.

(a) AUTHORIZATION.—The Secretary is authorized to award special grants to public or nonprofit private entities to assist such entities in collecting clinical data for supervised visitation centers established under this Act to determine—

(1) the extent to which supervised visitation should be allowed between children who are sexually abused or severely physically abused by a parent, where the visitation is not predicated on the abusive parent having successively completed a specialized course of therapy for such abusers;

(2) the effect of supervised visitation on child victims of sexual abuse of severe physical abuse when the abusive parent exercising visitation has not completed specialized therapy and does not use the visitation to alleviate the child victim's guilt, fear, or confusion;

(3) the relationship between the type of abuse or neglect experienced by the child and the use of supervised visitation centers by the maltreating parent; and

(4) in cases of spouse or partner abuse only, the extent to which supervised visitation should be predicated on participation by the abusive spouse in a specialized treatment program.

(b) APPLICATION.—To be eligible to receive a grant under this section an entity shall prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary may require, including documentary evidence to demonstrate that the entity possesses a high level of clinical expertise and experience in child abuse treatment and prevention as they relate to visitation. The level of clinical expertise and experience required will be determined by the Secretary.

(c) REPORT.—Not later than 1 year after the date on which a grant is received under this section, and each year thereafter for the duration of the grant, the grantee shall prepare and submit to the Secretary a report containing the clinical data collected under such grant.

SEC. 08. REPORTING.

Not later than 18 months after the date of enactment of this Act, and annually thereafter, the Secretary shall prepare and sub it to the appropriate committees of Congress a report containing the information collected under the reports received under sections 05 and 07, including recommendations made by the Secretary concerning whether or not the supervised visitation center demonstration and clinical data programs should be authorized.

SEC. 09. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—For the purpose of awarding grants, contracts and cooperative agreements under this Act, there are authorized to be appropriated $15,000,000 for fiscal year 1994, $20,000,000 for fiscal year 1995, and $25,000,000 for fiscal year 1996.

(b) DISTRIBUTION.—Of the amounts appropriated under subsection (a) for each fiscal year—

(1) not less than 80 percent shall be used to award grants, contracts, or cooperative agreements under section 05; and

(2) not more than 20 percent shall be used to award grants under section 07.

(c) DISBURSEMENT.—Amounts appropriated under this section shall be disbursed as categorical grants through the 10 regional offices of the Department of Health and Human Services.

SMITH AMENDMENT NO. 1125

Mr. SMITH (for himself and Mr. SIMPSON) proposed an amendment to the bill S. 1607, supra; as follows:

At the appropriate place, add the following:

"SEC. . REMOVAL OF ALIEN TERRORISTS.

The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting the following new section:

"REMOVAL OF ALIEN TERRORISTS

"SEC. 242C. (a) DEFINITIONS.—As used in this section—

"(1) the term 'alien terrorist' means any alien described in section 241(a)(4)(B);

"(2) the term 'classified information' has the same meaning as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App. IV);

"(3) the term 'national security' has the same meaning as defined in section 1(b) of the Classified Information Procedures Act (18 U.S.C. App. IV);

"(4) the term 'special court' means the court described in subsection (c) of this section; and

"(5) the term 'special removal hearing' means the hearing described in subsection (e) of this section.

"(b) APPLICATION FOR USE OF PROCEDURES.—The provisions of this section shall apply whenever the Attorney General certifies under seal to the special court that—

"(1) the Attorney General or Deputy Attorney General has approved of the proceeding under this section;

"(2) an alien terrorist is physically present in the United States; and

"(3) removal of such alien terrorist by deportation proceedings described in section 242, 242A, or 242B would pose a risk to the national security of the United States because such proceedings would disclose classified information.

"(c) SPECIAL COURT.—(1) The Chief Justice of the United States shall publicly designate up to 7 judges from up to 7 United States judicial districts to hear and decide cases arising under this section, in a manner consistent with the designation of judges described in section 103(a) of the Foreign Intelligence Surveillance Act (50 I.S.C. 1803(a)).

"(2) The Chief Justice may, in the Chief Justice's discretion, designate the same judges under this section as are designated pursuant to 50 U.S.C. 1803(a).

"(d) INVOCATION OF SPECIAL COURT PROCEDURE.—(1) When the Attorney General makes the application described in subsection (b), a single judge of the special court shall consider the application in camera and ex parte.

"(2) The judge shall invoke the procedures of subsection (e), if the judge determines that there is probable cause to believe that—

"(A) the alien who is the subject of the application has been correctly identified;

"(B) a deportation proceeding described in section 242, 242A, or 242B would pose a risk to the national security of the United States because such proceedings would disclose classified information; and

"(C) the threat posed by the alien's physical presence is immediate and invokes the risk of death or serious bodily harm.

"(e) SPECIAL REMOVAL HEARING.—(1) Except as provided in paragraph (4), the special removal hearing authorized by a showing of probable cause described in subsection (d)(2) shall be open to the public.

"(2) The alien shall have a right to be present at such hearing and to be represented by counsel. Any alien financially unable to obtain counsel shall be entitled to have counsel assigned to represent such alien. Counsel may be appointed as described in section 300A of title 18, United States Code.

"(3) The alien shall have a right to introduce evidence on his own behalf, and except as provided in paragraph (4), shall have a right to cross-examine any witness or request that the judge issue a subpoena for the presence of a named witness.

"(4) The judge shall authorize the introduction in camera and ex parte of any item of evidence for which the judge determines that public disclosure would pose a risk to the national security of the United States because it would disclose classified information.

"(5) With respect to any evidence described in paragraph (4), the judge shall cause to be delivered to the alien either—

"(A)(i) the substitution for such evidence of a statement admitting relevant facts that the specific evidence would tend to prove, or (ii) the substitution for such evidence of a summary of the specific evidence; or

"(B) if disclosure of even the substituted evidence described in subparagraph (A) would create a substantial risk of death or serious bodily harm to any person, a statement informing the alien that no such summary is possible.

"(6) If the judge determines—

"(A) that the substituted evidence described in paragraph (4)(B) will provide the alien with substantially the same ability to make his defense as would disclosure of the specific evidence, or

"(B) that disclosure of even the substituted evidence described in paragraph (5)(A) would create a substantial risk of death or serious bodily harm to any person,

then the determination of deportation (described in subsection (f)) may be made pursuant to this section.

"(f) DETERMINATION OF DEPORTATION.—(1) If the determination in subsection (e)(6)(A) has been made, the judge shall, considering the evidence on the record as a whole, require that the alien be deported if the Attorney General proves, by clear and convincing evidence, that the alien is subject to deportation because he is an alien as described in section 241(a)(4)(B).

"(2) If the determination in subsection (e)(6)(B) has been made, the judge shall, considering the evidence received (in camera and otherwise), require that the alien be deported if the Attorney General proves, by clear, convincing, and unequivocal evidence, that the alien is subject to deportation because he is an alien as described in section 241(a)(4)(B).

"(g) APPEALS.—(1) The alien may appeal a determination under subsection (f) to the court of appeals for the Federal Circuit, by filing a notice of appeal with such court within 20 days of the determination under such subsection.

"(2) The Attorney General may appeal a determination under subsection (d), (e), or (f) to the court of appeals for the Federal Circuit, by filing a notice of appeal with such court within 20 days of the determination under any one of such subsections.

"(3 When requested by the Attorney General, the entire record of the proceeding under this section shall be transmitted to the court of appeals under seal. The court of appeals shall consider such appeal in camera and ex parte."

LOTT (AND OTHERS) AMENDMENT NO. 1126

Mr. LOTT (for himself, Mr. MCCAIN, Mr. GORTON, Mr. THURMOND, Mr. HELMS, and Mr. SMITH) proposed an amendment to the bill S. 1607, supra; as follows:

At the appropriate place insert the following:

SEC. . MANDATORY LIFE IMPRISONMENT OF PERSONS CONVICTED OF A THIRD VIOLENT FELONY.

Section 3581 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c) IMPRISONMENT OF CERTAIN VIOLENT FELONS.—

"(1) DEFINITION.—In this section, violent felony' means a crime of violence (as defined in section 16) under Federal or State law that—

"(A) involves the threatened use, use, or risk of use of physical force against the person of another:

"(B) is punishable by a maximum term of imprisonment exceeding 1 year; and

"(C) is not designated as a misdemeanor by the law that defines the offense.

"(2) MANDATORY LIFE IMPRISONMENT.—Notwithstanding any other provision of this title or any other law, in the case of a conviction for a Federal violent felony, the court shall sentence the defendant to prison for life if the defendant has been convicted of a violent felony on 2 or more prior occasions.

"(3) RULE OF CONSTRUCTION.—This subsection shall not be construed to preclude imposition of the death penalty."

GLENN (AND OTHERS) AMENDMENT NO. 1127

Mr. GLENN (for himself, Mr. HELMS, Mr. LIEBERMAN, Mr. ROBB, Mr. INOUYE, Mr. KERRY and Mr. DORGAN) proposed an amendment to the bill S. 1607, supra; as follows:

On page 447, after line 23, add the following:

SEC. . EFFICIENCY IN LAW ENFORCEMENT AND CORRECTIONS.

(a) IN GENERAL.—In the administration of each grant program funded by appropriations authorized by this Act or by an amendment made by this Act, the Attorney General shall—

(1) encourage innovative methods for the low-cost construction of facilities to be constructed, converted, or expanded and the low-cost operation of such facilities; and the reduction of administrative costs and overhead expenses' and

(2) give priority to the use of surplus Federal property.

(b) ASSESSMENT OF CONSTRUCTION COMPONENTS AND DESIGNS.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall make an assessment of the cost efficiency and utility of using modular, prefabricated, precast, and pre-engineered construction components and designs for housing nonviolent criminals.

(c) SENSE OF CONGRESS.—It is the sense of the Congress that in providing assistance to State and local governments, the Attorney General should emphasize the provision of

technical assistance in implementing methods to promote cost efficiency and realization of savings.

HELMS AMENDMENT NO. 1128

Mr. HELMS proposed an amendment to the bill S. 1607, supra; as follows:

To be added at the end of the bill:

"SEC. . RESTRICTION ON PAYMENT OF BENEFITS TO INDIVIDUALS CONFINED BY COURT ORDER TO PUBLIC INSTITUTIONS PURSUANT TO VERDICTS OF NOT GUILTY BY REASON OF INSANITY OR OTHER MENTAL DISORDER.

Section 202(x) of the Social Security Act (42 U.S.C. 402(x)) is amended—

(1) in the heading, by inserting "and Certain Other Inmates of Public Institutions" after "Prisoners":

(2) in paragraph (1) add "(A)" after (1)

(3) in paragraph (1), by inserting at the end: (B) Notwithstanding any other provision of this subchapter, no monthly benefits shall be paid under this section or under section 423 of this title to any individual for any month during which such individual is confined in any public institution by a court order pursuant to a verdict that the individual is not guilty of such an offense by reason of insanity (or by reason of a similar finding, such as a mental disease, a mental defect, or mental incompetence), unless the payment is made directly to the public institution to compensate the institution for its expenses."

(4) in paragraph (3), by striking "any individual" and all that follows and inserting "any individual confined as described in paragraph (1) if the jail prison, penal institution, correctional facility, or other public institution to which such individual is so confined is under the jurisdiction of such agency and the Secretary requires such information to carry out the provisions of this section.".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall apply with respect to benefits for months commencing after 90 days after the date of the enactment of this Act.

THURMOND (AND OTHERS) AMENDMENT NO. 1129

Mr. THURMOND (for himself, Mr. METZENBAUM, Mr. DOLE, Mr. SIMPSON, Mr. NICKLES, Mr. KENNEDY, Mr. HATCH, Mr. HELMS, Mr. CRAIG, Mr. KEMPTHORNE, and Mr. BIDEN) proposed an amendment to the bill S. 1607, supra; as follows:

At the appropriate place in the bill add the following:

SECTION . DEFINITION.

Section 1201 of title 18, United States Code, is amended by adding at the end thereof the following:

"(h) As used in this section, the term 'parent' does not include any person whose parental rights as to the victim of an offense under this section have been terminated by a final court order."

GRAMM AMENDMENT NO. 1130

Mr. GRAMM proposed an amendment to the bill S. 1607, supra; as follows:

Beginning on page 399, strike line 13 and all that follows through the period on line 11, page 404; and insert in lieu thereof the following:

SEC. . INCREASED MANDATORY MINIMUM SENTENCES FOR CRIMINALS USING FIREARMS.

Section 924(c)(1) of title 18, United States Code, is amended by inserting after the first sentence the following: "Except to the extent a greater minimum sentence is otherwise provided by the preceding sentence or by any other provision of this subsection or any other law, a person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which a person may be prosecuted in a court of the United States, uses or carries a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—

"(A) be punished by imprisonment for not less than 10 years;

"(B) if the firearm is discharged, be punished by imprisonment for not less than 20 years; and

"(C) if the death of a person results, be punished by death or by imprisonment for not less than life.".

SEC. . MANDATORY MINIMUM PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS OR WHO USE MINORS IN DRUG TRAFFICKING ACTIVITIES.

(a) DISTRIBUTION TO PERSONS UNDER AGE 18.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a) (first offense) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided bysection 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age by a person 21 or more years of age shall be not less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence."; and

(2) in subsection (b) (second offense) by inserting after the second sentence "Except to the extent a greater sentence is otherwise authorized by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age by a person 21 or more years of age shall be a mandatory term of life imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b) by adding at the end the following: "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted under this subsection shall be not less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence."; and

(2) in subsection (c) (penalty for second offense) by inserting after the second sentence the following: "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted under this subsection shall be a mandatory term of life imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence.".

SEC. . LIFE IMPRISONMENT WITHOUT RELEASE FOR DRUG FELONS AND VIOLENT CRIMINALS CONVICTED A THIRD TIME.

Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking "If any person commits a violation of this subparagraph or of section 418, 419, or 420 after two or more convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence." and inserting "If any person commits a violation of this subparagraph or of section 418, 419, or 420 (21 U.S.C. 859, 860, and 861) or a crime of violence after 2 or more prior convictions for a felony drug offense or crime of violence or for any combination thereof have become final, such person shall be sentenced to not less than a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For the purpose of this subparagraph, the term 'crime of violence' means an offense that is a felony punishable by a maximum term of imprisonment of 10 years or more and has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.".

HATCH (AND OTHERS) AMENDMENT NO. 1131

Mr. HATCH (for himself, Mr. GRAMM, and Mr. DOLE) proposed an amendment to amendment No. 1130, proposed by Mr. GRAMM, to the bill S. 1607, supra; as follows:

In the pending amendment strike all after the first word and insert the following:

Subtitle B—Mandatory Minimum Sentence Guidelines

SEC. 2911. FLEXIBILITY IN APPLICATION OF MANDATORY MINIMUM SENTENCE PROVISIONS IN CERTAIN CIRCUMSTANCES.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 3553 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(f) MANDATORY MINIMUM SENTENCE PROVISIONS.—

"(1) SENTENCING UNDER THIS SECTION.—In the case of an offense described in paragraph (2), the court shall, notwithstanding the requirement of a mandatory minimum sentence in that section, impose a sentence in accordance with this section and the sentencing guidelines and any pertinent policy statement issued by the United States Sentencing Commission.

"(2) OFFENSES.—An offense is described in this paragraph if—

"(A) the defendant is subject to a mandatory minimum term of imprisonment under section 401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960);

"(B) the defendant does not have—

"(i) more than 1 criminal history point under the sentencing guidelines; or

"(ii) any prior conviction that resulted in a sentence of imprisonment (or an adjudication as a juvenile delinquent for an act that, if committed by an adult, would constitute a criminal offense, that resulted in the defendant's being taken into State custody);

"(C) the offense did not result in death or serious bodily injury (as defined in section 1365) to any person—

"(i) as a result of the act of any person during the course of the offense; or

"(ii) as a result of the use by any person of a controlled substance that was involved in the offense;

"(D) the defendant did not carry or otherwise have possession of a firearm (as defined in section 921) or other dangerous weapon during the course of the offense and did not direct another person who possessed a firearm to do so;

"(E) the defendant was not an organizer, leader, manager, or supervisor of others (as defined or determined under the sentencing guidelines) in the offense; and

"(F) the defendant was nonviolent in that the defendant did not use, attempt to use, or make a credible threat to use physical force against the person of another during the course of the offense.".

(b) HARMONIZATION.—

(1) IN GENERAL.—The United States Sentencing Commission—

(A) may make such amendments as it deems necessary and appropriate to harmonize the sentencing guidelines and policy statements with section 3553(f) of title 18, United States Code, as added by subsection (a), and promulgate policy statements to assist the courts in interpreting that provision; and

(B) shall amend the sentencing guidelines, if necessary, to assign to an offense under section 401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) to which a mandatory minimum term of imprisonment applies a guideline level that will result in the imposition of a term of imprisonment at least equal to the mandatory term of imprisonment that is currently applicable unless a downward adjustment is authorized under section 3553(f) of title 18, United States Code, as added by subsection (a).

(2) If the Commission determines that an expedited procedure is necessary in order for amendments made pursuant to paragraph (1) to become effective on the effective date specified in subsection (c), the Commission may promulgate such amendments as emergency amendments under the procedures set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100-182; 101 Stat. 1271), as though the authority under that section had not expired.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and any amendments to the sentencing guidelines made by the United States Sentencing Commission pursuant to subsection (b) shall apply with respect to sentences imposed for offenses committed on or after the date that is 60 days after the date of enactment of this Act.

SEC. . INCREASED MANDATORY MINIMUM SENTENCES FOR CRIMINALS USING FIREARMS.

Section 924(c)(1) of title 18, United States Code, is amended by inserting after the first sentence the following: "Except to the extent a greater minimum sentence is otherwise provided by the preceding sentence or by any other provision of this subsection or any other law, a person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which a person may be prosecuted in a court of the United States, uses or carries a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—

"(A) be punished by imprisonment for not less than 10 years;

"(B) if the firearm is discharged, be punished by imprisonment for not less than 20 years; and

"(C) if the death of a person results, be punished by death or by imprisonment for not less than life.".

SEC. . MANDATORY MINIMUM PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS OR WHO USE MINORS IN DRUG TRAFFICKING ACTIVITIES.

(a) DISTRIBUTION TO PERSONS UNDER AGE 18.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a) (first offense) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age by a person 21 or more years of age shall be not less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence."; and

(2) in subsection (b) (second offense) by inserting after the second sentence "Except to the extent a greater sentence is otherwise authorized by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age by a person 21 or more years of age shall be a mandatory term of life imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b) by adding at the end the following: "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted under this subsection shall be not less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence."; and

(2) in subsection (c) (penalty for second offenses) by inserting after the second sentence the following: "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted under this subsection shall be a mandatory term of life imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence.".

SEC. . LIFE IMPRISONMENT WITHOUT RELEASE FOR DRUG FELONS AND VIOLENT CRIMINALS CONVICTED A THIRD TIME.

Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking "If any person commits a violation of this subparagraph or of section 418, 419, or 420 after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence." and inserting "If any person commits a violation of this subparagraph or of section 418, 419, or 420 (21 U.S.C. 859, 860, and 861) or a crime of violence after 2 or more prior convictions for a felony drug offense or crime of violence or for any combination thereof have become final, such person shall be sentenced to not less than a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph the term 'crime of violence' means an offense that is a felony punishable by a maximum term of imprisonment of 10 years or more and has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.".

SIMON AMENDMENT NO. 1132

Mr. SIMON (for himself and Mr. KOHL) proposed an amendment to the bill S. 1607, supra; as follows:

At the appropriate place insert the following:

No person in the United States shall be sentenced to death for a crime committed when the person was under 18 years of age. The district courts of the United States shall have jurisdiction of proceedings for injunctive and equitable relief to enforce this section.

McCAIN AMENDMENT NO. 1133

Mr. McCAIN proposed an amendment to the bill S. 1607, supra; as follows:

At the appropriate place in the bill, add the following:

"SEC. . PARENTAL ACCOUNTABILITY.

(a) IN GENERAL.—Chaper 43 of title 18, United States Code, is amended by adding at the end the following new section:

"SEC. 5043. CIVIL PENALTIES FOR PARENTS OF CERTAIN JUVENILE OFFENDERS.

(a) IN GENERAL.—(1) The parent or legal guardians of any juvenile charged with any violation of federal law shall attend all court proceedings involving the juvenile, and

(2) if the court finds that the legal guardian or guardians did not exercise reasonable care to control the juvenile,

(A) the legal guardian or guardians shall be ordered to perform the same community service sentence as required to be performed by the juvenile if such sentence is ordered, or

(B) may be ordered by the court to perform community service not to exceed 2 hours of service for each seven days of incarceration ordered for the juvenile if community service is not ordered for the juvenile if community service is not ordered to be performed by the juvenile.

(3) Paragraphs (1) or (2) may be waived, in whole or in part, by the court if it deems that compliance with paragraphs (1) and (2) would result in undue hardship to the family of the juvenile.

(4) for the purpose of this section, the term "juvenile" means any person under 18 years of age.

MOSELEY-BRAUN AMENDMENT NO. 1134

Ms. MOSELEY-BRAUN proposed an amendment to the amendment No. 1133, proposed by Mr. McCAIN to the bill S. 1607, supra; as follows:

Strike all beginning on line 9 and insert in lieu thereof the following:

"(2) Except as provided in subsection (b), the parents or legal guardians of a juvenile who has been convicted of a criminal offense under any Federal law may be liable to the United States for a civil penalty of not more than $10,000.

(b) EXCERCISE OF PARENTAL RESPONSIBILITY.—The court may decline to enforce (a)(1) if it would cause undue hardship or to impose a fine under subsection (a)(2) if the court makes an affirmative determination that under the circumstances, the parents or legal guardians exercised reasonable care, supervision and control of the juvenile and counseled the juvenile that criminal activity is not acceptable.

(c) AMOUNT OF FINE.—

(1) MANDATORY MINIMUM.—In no case shall a fine imposed under subsection (a) be less than $100.

(2) FINANCIAL HARDSHIP.—In no case shall a fine imposed under subsection (a) be less than $500 unless the court makes a finding that a fine in that amount would impose a severe financial hardship on the family of the parent or legal guardians.

(3) If the court determines that the parents or legal guardians are not financially able to pay the fine immediately, the court may set a schedule by which the fine will be paid over time.

(d) COMMUNITY SERVICE OR PARENTING CLASSES IN LIEU OF CIVIL PENALTY.—A parent or legal guardian ordered to pay a civil penalty under this section may petition the court to perform such community service or attend and successfully complete parenting classes, as the court determines to be appropriate, in lieu of the civil penalty.

(e) DEFINITIONS.—

(1) For the purposes of this section, the term "juvenile" means any person who is under 18 years of age.

(2) For the purpose of this section, the term "parent" means a biological or custodial parent who has legal responsibility for the juvenile at the time the crime was committed.

(f) TECHNICAL AMENDMENT.—The chapter analysis for chapter 403 of title 18, United States Code, is amended by adding at the end the following new item:

"5043. Civil penalties for parents of certain juvenile offenders.".

BIDEN (AND HATCH) AMENDMENT NO. 1135

Mr. HATCH (for Mr. BIDEN for himself and Mr. HATCH) proposed an amendment to the bill S. 1607, supra; as follows:

AMENDMENT NO. 1135

Strike Title II and insert the following:

TITLE II—DEATH PENALTY

SEC. 201. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1993".

SEC. 202. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18, United States Code, is amended by inserting after chapter 227 the following new chapter:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.
"3598. Special provisions for Indian country.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381;

"(2) an offense described in section 1751(c), if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to intentionally kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(3) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(C) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(D) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense.

"§ 3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider any mitigating factor, including the following:

"(1) IMPAIRED CAPACITY.—The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) MINOR PARTICIPATION.—The defendant is punishable as a principal in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) EQUALLY CULPABLE DEFENDANTS.—Another defendant or defendants, equally culpable in the crime, will not be punished by death.

"(5) NO PRIOR CRIMINAL RECORD.—The defendant did not have a significant prior history of other criminal conduct.

"(6) DISTURBANCE.—The defendant committed the offense under severe mental or emotional disturbance.

"(7) VICTIM'S CONSENT.—The victim consented to the criminal conduct that resulted in the victim's death.

"(8) OTHER FACTORS.—Other factors in the defendant's background, record, or character or any other circumstance of the offense that mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(1), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist:

"(1) PRIOR ESPIONAGE OR TREASON OFFENSE.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of either life imprisonment or death was authorized by law.

"(2) GRAVE RISK TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security.

"(3) GRAVE RISK OF DEATH.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (2) or (3), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist:

"(1) DEATH DURING COMMISSION OF ANOTHER CRIME.—The death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 32 (destruction of aircraft or aircraft facilities), section 33 (destruction of motor vehicles or motor vehicle facilities), section 36 (violence at international airports), section 351 (violence against Members of Congress, Cabinet officers, or Supreme Court Justices), an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1203 (hostage taking), section 1992 (wrecking trains), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958 (49 U.S.C. 1472 (i) or (n)) (aircraft piracy).

"(2) INVOLVEMENT OF FIREARM OR PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—For any offense, other than an offense for which a sentence of death is sought on the basis of section 924(c), the defendant—

"(A) during and in relation to the commission of the offense or in escaping or attempting to escape apprehension used or possessed a firearm (as defined in section 921); or

"(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than 1 year,

involving the use or attempted or threatened use of a firearm (as defined in section 921) against another person.

"(3) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of 2 or more Federal or State offenses, punishable by a term of imprisonment of more than 1 year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to 1 or more persons in addition to the victim of the offense.

"(6) HEINOUS, CRUEL, OR DEPRAVED MANNER OF COMMITTING OFFENSE.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism.

"(10) CONVICTION FOR TWO FELONY DRUG OFFENSES.—The defendant has previously been convicted of 2 or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) CONVICTION FOR SERIOUS FEDERAL DRUG OFFENSES.—The defendant had previously been convicted of violating title II or III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise.

"(13) CONTINUING CRIMINAL ENTERPRISE INVOLVING DRUG SALES TO MINORS.—The defendant committed the offense in the course of engaging in a continuing criminal enterprise in violation of section 408(c) of the Controlled Substances Act (21 U.S.C. 848(c)), and that violation involved the distribution of drugs to persons under the age of 21 in violation of section 418 of that Act (21 U.S.C. 859).

"(14) HIGH PUBLIC OFFICIALS.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A), if the official is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he or she is engaged in the performance of his or her official duties;

"(ii) because of the performance of his or her official duties; or

"(iii) because of his or her status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution or adjudication of an offense, and includes those engaged in corrections, parole, or probation functions.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, the attorney shall, a reasonable time before the trial or before acceptance by the court of a plea of guilty, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family, and may include oral testimony, a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim and the victim's family, and any other relevant information. The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits. The defendant may present any information relevant to a mitigating factor. The government may present any information relevant to an aggravating factor for which notice has been provided under subsection (a). Information is admissible regardless of its admissibility under the rules governing admission of evidence at criminal trials except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by 1 or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(1), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (2) or (3), an aggravating factor required to be

considered under section 3592(c) is found to exist,

the jury, or if there is no jury, the court, shall consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether the defendant should be sentenced to death, to life imprisonment without possibility of release or some other lesser sentence.

"(f) SPECIAL PRECAUTION TO ENSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon a recommendation under section 3593(e) that the defendant should be sentenced to death or life imprisonment without possibility of release, the court shall sentence the defendant accordingly. Otherwise, the court shall impose any lesser sentence that is authorized by law. Notwithstanding any other law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without possibility of release.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) The court of appeals shall address all substantive and procedural issues raised on the appeal of a sentence of death, and shall consider whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor and whether the evidence supports the special finding of the existence of an aggravating factor required to be considered under section 3592.

"(2) Whenever the court of appeals finds that—

"(A) the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(B) the admissible evidence and information adduced does not support the special finding of the existence of the required aggravating factor; or

"(C) the proceedings involved any other legal error requiring reversal of the sentence that was properly preserved for appeal under the rules of criminal procedure,

the court shall remand the case for reconsideration under section 3593 or imposition of a sentence other than death. The court of appeals shall not reverse or vacate a sentence of death on account of any error which can be harmless, including any erroneous special finding of an aggravating factor, where the government establishes beyond a reasonable doubt that the error was harmless.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) IN GENERAL.—A person who has been sentenced to death pursuant to this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of the State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does provide for the implementation of a sentence of death, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) PREGNANT WOMAN.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) MENTAL CAPACITY.—A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability, lacks the mental capacity to understand the death penalty and why it was imposed on that person.

"§ 3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections, the United States Department of Justice, the Federal Bureau of Prisons, or the United States Marshals Service, and no employee providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any prosecution or execution under this section if such participation is contrary to the moral or religious convictions of the employee. In this subsection, 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.

"§ 3598. Special provisions for Indian country

"Notwithstanding sections 1152 and 1153, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to a capital sentence under this chapter for any offense the Federal jurisdiction for which is predicated solely on Indian country (as defined in section 1151 of this title) and which has occurred within the boundaries of Indian country, unless the governing body of the tribe has elected that this chapter have effect over land and persons subject to its criminal jurisdiction.".

(b) TECHNICAL AMENDMENT.—The part analysis for part II of title 18, United States Code, is amended by inserting after the item relating to chapter 227 the following new item:

"228. Death sentence ..... 3591".

SEC. 203. SPECIFIC OFFENSES FOR WHICH DEATH PENALTY IS AUTHORIZED.

(a) CONFORMING CHANGES IN TITLE 18.—Title 18, United States Code, is amended as follows:

(1) AIRCRAFT AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life", inserting a period, and striking the remainder of the section.

(2) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(3) EXPLOSIVE MATERIALS.—(A) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(B) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(C) Section 844(i) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(4) MURDER.—The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(5) KILLING OF FOREIGN OFFICIAL.—Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(6) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(7) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18,

United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(8) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section, shall be punished—

"(1) by imprisonment for any term of years or for life; or

"(2) if the conduct constitutes an attempt to intentionally kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President, by death or imprisonment for any term of years or for life.".

(9) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life", inserting a period, and striking the remainder of the section.

(10) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(11) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(12) MURDER FOR HIRE.—Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(13) RACKETEERING.—Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(14) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, by death or imprisonment for life and a fine of not more than $1,000,000, or both;".

(15) CARJACKING.—Section 2119(3) of title 18, United States Code, is amended by striking the period after "both" and inserting "; or sentenced to death.".

(b) CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.—Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473) is amended by striking subsection (c).

SEC. 204. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

Chapter 228 of title 18, United States Code, as added by this title, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 205. DEATH PENALTY FOR MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1118. Murder by a Federal prisoner

"(a) OFFENSE.—A person who, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, commits the murder of another shall be punished by death or by life imprisonment.

"(b) DEFINITIONS.—In this section—

"'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house.

"'murder' means a first degree or second degree murder (as defined by section 1111).

"'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Murder by a Federal prisoner.".

SEC. 206. DEATH PENALTY FOR CIVIL RIGHTS MURDERS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5) by inserting ", or may be sentenced to death" after "or for life".

(d) DAMAGE TO RELIGIOUS PROPERTY; OBSTRUCTION OF THE FREE EXERCISE OF RELIGIOUS RIGHTS.—Section 247(c)(1) of title 18, United States Code, is amended by inserting ", or may be sentenced to death" after "or both".

SEC. 207. DEATH PENALTY FOR THE MURDER OF FEDERAL LAW ENFORCEMENT OFFICIALS.

Section 1114(a) of title 18, United States Code, is amended by striking "punished as provided under sections 1111 and 1112 of this title," and inserting "punished, in the case of murder, by a sentence of death or life imprisonment as provided under section 1111, or, in the case of manslaughter, a sentence as provided under section 1112.".

SEC. 208. NEW OFFENSE FOR THE INDISCRIMINATE USE OF WEAPONS TO FURTHER DRUG CONSPIRACIES.

(a) SHORT TITLE.—This section may be cited as the "Drive-By Shooting Prevention Act of 1993".

(b) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 36. Drive-by shooting

"(a) DEFINITION.—In this section, 'major drug offense' means—

"(1) a continuing criminal enterprise punishable under section 403(c) of the Controlled Substances Act (21 U.S.C. 848(c));

"(2) a conspiracy to distribute controlled substances punishable under section 406 of the Controlled Substances Act (21 U.S.C. 846) section 1013 of the Controlled Substances Import and Export Control Act (21 U.S.C. 963); and

"(3) an offense involving major quantities of drugs and punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) or section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)).

"(b) OFFENSE AND PENALTIES.—(1) A person who, in furtherance or to escape detection of a major drug offense and with the intent to intimidate, harass, injure, or maim, fires a weapon into a group of two or more persons and who, in the course of such conduct, causes grave risk to any human life shall be punished by a term of no more than 25 years, by fine under this title, or both.

"(2) A person who, in furtherance or to escape detection of a major drug offense and with the intent to intimidate, harass, injure, or maim, fires a weapon into a group of 2 or more persons and who, in the course of such conduct, kills any person shall, if the killing—

"(A) is a first degree murder (as defined in section 1111(a)), be punished by death or imprisonment for any term of years or for life, fined under this title, or both; or

"(B) is a murder other than a first degree murder (as defined in section 1111(a)), be fined under this title, imprisoned for any term of years or for life, or both.".

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following new item:

"36. Drive-by shooting.".

SEC. 209. FOREIGN MURDER OF UNITED STATES NATIONALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1118. Foreign murder of United States nationals

"(a) DEFINITION.—In this section, 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"(b) OFFENSE.—A person who, being a national of the United States, kills or attempts to kill a national of the United States while such national is outside the United States but within the jurisdiction of another country shall be punished as provided under sections 1111, 1112, and 1113.

"(c) LIMITATIONS ON PROSECUTION.—(1) No prosecution may be instituted against any person under this section except upon the written approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, which function of approving prosecutions may not be delegated. No prosecution shall be approved if prosecution has been previously undertaken by a foreign country for the same conduct.

"(2) No prosecution shall be approved under this section unless the Attorney General, in consultation with the Secretary of State, determines that the conduct took place in a country in which the person is no longer present, and the country lacks the ability to lawfully secure the person's return. A determination by the Attorney General under this paragraph is not subject to judicial review.".

(b) TECHNICAL AMENDMENTS.—(1) Section 1117 of title 18, United States Code, is amended by striking "or 1116" and inserting "1116, or 1118".

(2) The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Foreign murder of United States nationals.".

SEC. 210. DEATH PENALTY FOR RAPE AND CHILD MOLESTATION MURDERS.

(a) OFFENSE.—Chapter 109A of title 18, United States Code, is amended—

(1) by redesignating section 2245 as section 2246; and

(2) by inserting after section 2244 the following new section:

"§ 2245. Sexual abuse resulting in death

"A person who, in the course of an offense under this chapter, engages in conduct that

results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

(b) TECHNICAL AMENDMENTS.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by striking the item for section 2245 and inserting the following:

"2245. Sexual abuse resulting in death.
"2246. Definitions for chapter.".

SEC. 211. DEATH PENALTY FOR SEXUAL EXPLOITATION OF CHILDREN.

Section 2251(d) of title 18, United States Code, is amended by adding at the end the following: "Whoever, in the course of an offense under this section, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

SEC. 212. MURDER BY ESCAPED PRISONERS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, as amended by section 109(a), is amended by adding at the end the following new section:

"§ 1119. Murder by escaped prisoners

"(a) DEFINITION.—In this section, 'Federal prison' and 'term of life imprisonment' have the meanings stated in section 1118.

"(b) OFFENSE AND PENALTY.—A person, having escaped from a Federal prison where the person was confined under a sentence for a term of life imprisonment, kills another shall be punished as provided in sections 1111 and 1112.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, as amended by section 109(b)(2), is amended by adding at the end the following new item:

"1119. Murder by escaped prisoners.".

SEC. 213. DEATH PENALTY FOR GUN MURDERS DURING FEDERAL CRIMES OF VIOLENCE AND DRUG TRAFFICKING CRIMES.

Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i) A person who, in the course of a violation of subsection (c), causes the death of a person through the use of a firearm, shall—

"(1) if the killing is a murder (as defined in section 1111), be punished by death or by imprisonment for any term of years or for life; and

"(2) if the killing is manslaughter (as defined in section 1112), be punished as provided in that section.".

SEC. 214. HOMICIDES AND ATTEMPTED HOMICIDES INVOLVING FIREARMS IN FEDERAL FACILITIES.

Section 930 of title 18, United States Code, is amended—

(1) by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively;

(2) in subsection (a) by striking "(c)" and inserting "(d)"; and

(3) by inserting after subsection (b) the following new subsection:

"(c) A person who kills or attempts to kill any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, shall be punished as provided in sections 1111, 1112, and 1113.".

SEC. 215. MURDER IN COURSE OF ALIEN SMUGGLING.

Section 274(a) of the Immigration and Naturalization Act (8 U.S.C. 1324) is amended by inserting before the period at the end the following: "; *Provided further*, That if during and in relation to an offense described in paragraph (1) the person causes serious bodily injury to, or places in jeopardy the life of, any alien, such person shall be subject to a term of imprisonment of not more than 20 years, and if the death of any alien results, shall be punished by death or imprisoned for any term of years or for life.".

HATCH AMENDMENT NO. 1136

Mr. HATCH proposed an amendment to the bill, S. 1607, supra; as follows:

On page 260, strike line 15 and all that follows through page 262, line 11, and insert the following:

SEC. 1201. COORDINATED ADMINISTRATION OF PROGRAMS.

(a) APPLICATION.—The Attorney General may establish a unified or coordinated process for applying for grants under parts T, U, and V of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as added by this title. In addition to any other requirements that may be specified by the Attorney General, an application for a grant under any provision of this title shall—

(1) include a long-term strategy and detailed implementation plan;

(2) explain the applicant's inability to fund the program adequately without Federal assistance;

(3) certify that the Federal support provided will be used to supplement, and not supplant, State and local sources of funding that would otherwise be available;

(4) identify related governmental and community initiatives which complement or will be coordinated with the proposal;

(5) certify that there has been appropriate coordination with all affected agencies;

(6) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support; and

(7) certify that no violent offenders will be eligible or allowed to participate in the program authorized under part U.

(b) REGULATORY AUTHORITY.—

(1) IN GENERAL.—The Attorney General shall issue regulations and guidelines to carry out the programs authorized by this title, including specifications concerning application requirements, selection criteria, duration and renewal of grants, evaluation requirements, matching funds, limitation of administrative expenses, submission of reports by grantees, recordkeeping by grantees, and access to books, records, and documents maintained by grantees or other persons for purposes of audit or examination.

(2) PROHIBITION OF PARTICIPATION BY VIOLENT OFFENDERS.—The Attorney General shall—

(A) issue regulations and guidelines to ensure that the programs authorized under part U of this title do not permit participation by violent offenders; and

(B) immediately suspend funding for any grant under this title if the Attorney General finds that violent offenders are participating in any program funded under part U.

(c) TECHNICAL ASSISTANCE AND EVALUATION.—The Attorney General may provide technical assistance to grantees under the programs authorized by this title. The Attorney General may carry out, or arrange by grant or contract or otherwise for the carrying out of, evaluations or programs receiving assistance under the programs authorized by this title, in addition to any evaluations that grantees may be required to carry out pursuant to subsection (b).

(d) USE OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this section or other provisions of this title, or in coordinating activities under the programs authorized by this title.

(e) GAO STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall study and assess the effectiveness and impact of grants authorized by this title and report to Congress the results of the study on or before January 1, 1997.

(2) DOCUMENTS AND INFORMATION.—The Attorney General and grant recipients shall provide the Comptroller General with all relevant documents and information that the Comptroller General deems necessary to conduct the study under paragraph (a), including the identities and criminal records of program participants.

(3) CRITERIA.—In assessing the effectiveness of the grants made under programs authorized by this title, the Comptroller General shall consider, among other things—

(A) recidivism rates of program participants;

(B) completion rates among program participants;

(C) drug use by program participants; and

(D) the costs of the program to the criminal justice system.

(f) DEFINITION.—In this title, "violent offender" means a person charged with or convicted of an offense (or charged with or adjudicated as a delinquent by reason of conduct that, if engaged in by an adult would constitute an offense), during the course of which offense or conduct—

(1) the person carried, possessed, or used a firearm or dangerous weapon;

(2) there occurred the death of or serious bodily injury to any person; or

(3) there occurred the use of force against the person of another

without regard to whether any of the circumstances described in paragraph (1), (2), or (3) is an element of the offense or conduct of which or for which the person is charged, convicted, or adjudicated as a delinquent.

HATCH AMENDMENT NO. 1137

Mr. HATCH proposed an amendment to the bill, S. 1607, supra; as follows:

On page 276, line 7, strike "28" and insert "25".

HATCH (AND OTHERS) AMENDMENT NO. 1138

Mr. HATCH (for himself and Mr. BIDEN, Mr. PRESSLER, Mr. KEMPTHORNE, Mr. LEAHY, and Mr. FEINGOLD) proposed an amendment to the bill, S. 1607, supra; as follows:

On page 308, strike line 2 and all that follows through page 310, line 7, and insert the following:

Subtitle A—Drug Trafficking in Rural Areas

SEC. 1401. AUTHORIZATIONS FOR RURAL LAW ENFORCEMENT AGENCIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(9) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(9) There are authorized to be appropriated to carry out part O $50,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998.".

(b) AMENDMENT TO BASE ALLOCATION.—Section 1501(a)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "$100,000" and inserting "$250,000".

SEC. 1402. RURAL CRIME AND DRUG ENFORCEMENT TASK FORCES.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Governors, mayors, and chief executive officers of State and local law enforcement agencies, shall establish a Rural Crime and Drug Enforcement Task Force in each of the Federal judicial districts which encompass significant rural lands. Assets seized as a result of investigations initiated by a Rural Drug Enforcement Task Force shall be used primarily to enhance the operations of the task force and its participating State and local law enforcement agencies.

(b) TASK FORCE MEMBERSHIP.—The task forces established under subsection (a) shall be chaired by the United States Attorney for the respective Federal judicial district. The task forces shall include representatives from—

(1) State and local law enforcement agencies;

(2) the Drug Enforcement Administration;

(3) the Federal Bureau of Investigation;

(4) the Immigration and Naturalization Service;

(5) the Customs Service;

(6) the United States Marshals Service; and

(7) law enforcement officers from the United States Park Police, United States Forest Service and Bureau of Land Management, and such other Federal law enforcement agencies as the Attorney General may direct.

SEC. 1403. CROSS-DESIGNATION OF FEDERAL OFFICERS.

(a) IN GENERAL.—The Attorney General may cross-designate up to 100 law enforcement officers from each of the agencies specified under section 1502(b)(6) of the Omnibus Crime Control and Safe Streets Act of 1968 with jurisdiction to enforce the provisions of the Controlled Substances Act on non-Federal lands and title 18 of the United States Code to the extent necessary to effect the purposes of this Act.

(b) ADEQUATE STAFFING.—The Attorney General shall, subject to the availability of appropriations, ensure that each of the task forces established in accordance with this title are adequately staffed with investigators and that additional investigators are provided when requested by the task force.

SEC. 1404. RURAL DRUG ENFORCEMENT TRAINING.

(a) SPECIALIZED TRAINING FOR RURAL OFFICERS.—The Director of the Federal Law Enforcement Training Center shall develop a specialized course of instruction devoted to training law enforcement officers from rural agencies in the investigation of drug trafficking and related crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsection (a) $1,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998.

SEC. 1405. MORE AGENTS FOR THE DRUG ENFORCEMENT ADMINISTRATION.

There are authorized to be appropriated for the hiring of additional Drug Enforcement Administration agents $20,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998.

HATCH AMENDMENT NO. 1139

Mr. HATCH proposed an amendment to the bill S. 1607, supra; as follows:

On page 219, between lines 7 and 8, insert the following:

Subtitle D—Improved Training and Technical Automation

SEC. 1031. IMPROVED TRAINING AND TECHNICAL AUTOMATION.

(a) GRANTS.—

(1) IN GENERAL.—The Attorney General shall, subject to the availability of appropriations, make grants to units of State and local law enforcement for the purposes of improving law enforcement agency efficiency through computerized automation and technological improvements.

(2) TYPES OF PROGRAMS.—Grants under this section may include programs to—

(A) increase use of mobile digital terminals;

(B) improve communications systems;

(C) accomplish paper-flow reduction;

(D) establish or improve ballistics identification programs;

(E) increase the application of automated fingerprint identification systems and their communications on an interstate and intrastate basis; and

(F) improve computerized collection of criminal records.

(3) No funds under this subtitle may be used to implement a cryptographic or digital telephone program.

(b) TRAINING AND INVESTIGATIVE ASSISTANCE.—

(1) IN GENERAL.—The Attorney General shall, subject to the availability of appropriations—

(A) expand and improve investigative and managerial training courses for State and local law enforcement agencies; and

(B) develop and implement, on a pilot basis with no more than 10 participating cities, an intelligent information system that gathers, integrates, organizes, and analyzes information in active support of investigations by Federal, State, and local law enforcement agencies of violent serial crimes.

(2) IMPROVEMENT OF FACILITIES.—The improvement described in subsection (a) shall include improvements of the training facilities of the Federal Bureau of Investigation Academy at Quantico, Virginia.

(3) INTELLIGENT INFORMATION SYSTEM.—The intelligent information system described in paragraph (1)(B) shall be developed and implemented by the Federal Bureau of Investigation and shall utilize the resources of the Violent Criminal Apprehension Program.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1994—

(1) $100,000,000 to carry out subsection (a);

(2) $40,000,000 to carry out subsection (b)(1)(A); and

(3) $10,000,000 to carry out subsection (b)(2)(B).

DOLE (AND OTHERS) AMENDMENT NO. 1140

Mr. DOLE (for himself and Mr. HATCH) proposed an amendment to the bill, S. 1607, supra; as follows:

On page 114, strike line 11 and all that follows through page 126, line 13, and insert the following:

TITLE VI—GANGS, JUVENILES, DRUGS, AND PROSECUTORS

SEC. 601. SHORT TITLE.

This title may be cited as the "Anti-Gang and Youth Protection Act of 1993".

Subtitle A—Criminal Youth Gangs

SEC. 611. CRIMINAL STREET GANGS OFFENSES.

(a) OFFENSE.—Title 18, United States Code, is amended by inserting after chapter 93 the following new chapter:

"CHAPTER 94—PROHIBITED PARTICIPATION IN CRIMINAL STREET GANGS AND GANG CRIME

"Sec.

"1930. Crimes in furtherance of gangs.

"1931. Prohibited activity.

"1932. Penalties.

"1933. Investigative authority.

"§ 1930. Crimes in furtherance of gangs

"(a) FINDINGS.—The Congress makes the following findings:

"(1) Criminal street gangs have become increasingly prevalent and entrenched in our society in the last several decades. In many areas of the country, these gangs exert considerable control over other members of their community, particularly through the use of violence and drugs. Criminal street gangs have also become more national in scope, extending their influence beyond the urban areas in which they originated.

"(2) The major activities of criminal street gangs are crimes of violence and the distribution and use of illegal drugs. It is through these activities that criminal street gangs directly affect interstate and foreign commerce, even when their particular activities, viewed in isolation, appear to be purely intrastate in character.

"(b) BASIS FOR CHAPTER.—On the basis of the findings stated in subsection (a), the Congress determines that the provisions of this chapter are necessary and proper for the purpose of carrying into execution the powers of Congress to regulate commerce and to establish criminal law.

"§ 1931. Prohibited activity

"(a) DEFINITIONS.—In this chapter—

"'criminal street gang' means an organization or group of 5 or more persons, whether formal or informal, who act in concert, or agree to act in concert, for a period in excess of 30 days, with a purpose that any of those persons alone, or in any combination, commit or will commit, 2 or more predicate gang crimes, 1 of which must occur after the date of enactment of this chapter and the last of which occurred within 10 years (excluding any period of imprisonment) after the commission of a prior predicate gang crime.

"'participate in a criminal street gang' means to act in concert with a criminal street gang with intent to commit, or with the intent that any other person associated with the criminal street gang will commit, 1 or more predicate gang crimes.

"'predicate gang crime' means—

"(A) any act or threat, or attempted act or threat, which is chargeable under Federal or State law and punishable by imprisonment for more than 1 year, involving murder, attempted murder, kidnapping, robbery, extortion, arson, obstruction of justice, tampering with or retaliating against a witness, victim, or informant, or manufacturing, importing, receiving, concealing, purchasing, selling, possessing, or otherwise dealing in a controlled substance or controlled substance analogue (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

"(B) any act punishable by imprisonment for more than 1 year under section 922 or 924 (a)(2), (b), (c), (g), or (h) (relating to receipt, possession, and transfer of firearms), section 1503 (relating to obstruction of justice), section 1510 (relating to obstruction of criminal investigations), section 1512 (relating to tampering with a witness, victim, or informant), or section 1513 (relating to retaliating against a witness, victim, or informant); or

"(C) any act punishable under subsection (b)(5).

"'State' means a State, the District of Columbia, and any commonwealth, territory, or possession of the United States.

"(b) UNLAWFUL ACTS.—It shall be unlawful—

"(1) to commit, or to attempt to commit, a predicate gang crime with intent to promote or further the activities of a criminal street gang or for the purpose of gaining entrance to or maintaining or increasing position in such a gang;

"(2) to participate, or attempt to participate, in a criminal street gang, or conspire to do so;

"(3) to command, counsel, persuade, induce, entice, or coerce any individual to participate in a criminal street gang;

"(4) to employ, use, command, counsel, persuade, induce, entice, or coerce any individual to commit, cause to commit, or facilitate the commission of, a predicate gang crime, with intent to promote the activities of a criminal street gang or for the purpose of gaining entrance to or maintaining or increasing position in such a gang; or

"(5) to use any communication facility, as defined in section 403(b) of the Controlled Substances act (21 U.S.C. 843(b)), in causing or facilitating the commission, or attempted commission, of a predicate gang crime with intent to promote or further the activities of a criminal street gang or for the purpose of gaining entrance to or maintaining or increasing position in such a gang. Each separate use of a communication facility shall be a separate offense under this subsection.

"§ 1932. Penalties

"(a) PENALTIES OF UP TO 20 YEARS OR LIFE IMPRISONMENT.—A person who violates section 1931(b) (1) or (2) shall be punished by imprisonment for not more than 20 years, or by imprisonment for any term of years or for life if the violation is based on a predicate gang crime for which the maximum penalty includes life imprisonment, and if a person commits such a violation after 1 or more prior convictions for such a predicate gang crime, that is not part of the instant violation, such person shall be sentenced to a term of imprisonment which shall not be less than 10 years and which may be for any term of years exceeding 10 years or for life.

"(b) PENALTIES BETWEEN 5 AND 10 YEARS.—A person who violates section 1931(b) (3) or (4) shall be sentenced to imprisonment for not less than 5 nor more than 10 years, and if a person who was the subject of the act was less than 18 years of age, to imprisonment for 10 years. A term of imprisonment under this subsection shall run consecutively to any other term of imprisonment, including that imposed for any other violation of this chapter.

"(c) PENALTIES OF UP TO 5 YEARS.—A person who violates section 1931(b)(5) shall be punished by imprisonment for not more than 5 years.

"(d) ADDITIONAL PENALTIES.—

"(1) IN GENERAL.—In addition to the other penalties authorized by this section—

"(A) a person who violates section 1931(b) (1) or (2), 1 of whose predicate gang crimes involves murder or conspiracy to commit murder which results in the taking of a life, and who commits, counsels, commands, induces, procures, or causes that murder, shall be punished by death or by imprisonment for life;

"(B) a person who violates section 1931(b) (1) or (2), 1 of whose predicate gang crimes involves attempted murder or conspiracy to commit murder, shall be sentenced to a term of imprisonment which shall not be less than 20 years and which may be for any term of years exceeding 20 years or for life; and

"(C) a person who violates section 1931(b) (1) or (2), and who at the time of the offense occupied a position of organizer or supervisor, or other position of management in that street gang, shall be sentenced to a term of imprisonment which shall not be less than 15 years and which may be for any term of years exceeding 15 years or for life.

"(2) PRESUMPTION.—For purposes of paragraph (1)(C), if it is shown that the defendant counseled, commanded, induced, or procured 5 or more individuals to participate in a street gang, there shall be a rebuttable presumption that the defendant occupied a position of organizer, supervisor, or other position of management in the gang.

"(e) FORFEITURE.—

"(1) IN GENERAL.—A person who violates section 1931(b) (1) or (2) shall, in addition to any other penalty and irrespective of any provision of State law, forfeit to the United States—

"(A) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as a result of the violation; and

"(B) any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, the violation.

"(2) APPLICATION OF CONTROLLED SUBSTANCES ACT.—Section 413 (b), (c), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), and (p) of the Controlled Substances Act (21 U.S.C. 853 (b), (c), and (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), and (p)) shall apply to a forfeiture under this section.

(c) SENTENCING GUIDELINES INCREASE FOR GANG CRIMES.—The United States Sentencing Commission shall at the earliest opportunity amend the sentencing guidelines to increase by at least 4 levels the base offense level for any felony committed for the purpose of gaining entrance into, or maintaining or increasing position in, a criminal street gang. For purposes of this subsection, "criminal street gang" means any organization, or group, of 5 or more individuals, whether formal or informal, who act in concert, or agree to act in concert, for a period in excess of 30 days, with the intent that any of those individuals alone, or in any combination, commit or will commit, 2 or more acts punishable under State or Federal law by imprisonment for more than 1 year.

SEC. 612. CRIMES INVOLVING THE USE OF MINORS AS RICO PREDICATES.

Section 1961(1) of title 18, United States Code, is amended—

(1) by striking "or" before "(E)"; and

(2) by inserting before the semicolon at the end of the paragraph the following: ", or (F) any offense against the United States that is punishable by imprisonment for more than 1 year and that involved the use of a person below the age of 18 years in the commission of the offense".

SEC. 613. SERIOUS JUVENILE DRUG OFFENSES AS ARMED CAREER CRIMINAL ACT PREDICATES.

Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking "or" at the end of clause (i);

(2) by striking "and" at the end of clause (ii) and inserting "or"; and

(3) by adding at the end the following:

"(iii) any act of juvenile delinquency that if committed by an adult would be a serious drug offense described in this paragraph; and".

SEC. 614. ADULT PROSECUTION OF SERIOUS JUVENILE OFFENDERS.

Section 5032 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by striking "an offense described in section 401 of the Controlled Substances Act (21 U.S.C 841), or section 1002(a), 1003, 1005, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b)(1), (2), (3))," and inserting "an offense (or a conspiracy or attempt to commit an offense) described in section 401, or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841, 844, or 846), section 1002(a), 1003, 1005, 1009, 1010(b)(1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b)(1), (2), or (3), or 963),"; and

(B) by striking "922(p)" and inserting "924(b), (g), or (h)";

(2) in the fourth undesignated paragraph—

(A) by striking "an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959)" and inserting "an offense (or a conspiracy or attempt to commit an offense) described in section 401, or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841, 844, or 846), section 1002(a), 1005, 1009, 1010(b)(1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959, 960(b)(1), (2), or (3), or 963), or section 924(b), (g), or (h) of this title,"; and

(B) by striking "subsection (b)(1)(A), (B), or (C), (d), or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b)(1), (2), (3))" and inserting "or an offense (or conspiracy or attempt to commit an offense) described in section 401(b)(1)(A), (B), or (C), (d), or (e), or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A), (B), or (C), (d), or (e), 844, or 846) or section 1002(a), 1003, 1009, 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b)(1), (2), or (3), or 963)"; and

(3) in the fifth undesignated paragraph by adding at the end the following: "In considering the nature of the offense, as required by this paragraph, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use or distribution of controlled substances or firearms. Such a factor, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of this factor shall not preclude such a transfer.".

SEC. 615. INCREASED PENALTIES FOR EMPLOYING CHILDREN TO DISTRIBUTE DRUGS NEAR SCHOOLS AND PLAYGROUNDS.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding any other law, any person at least 18 years of age who knowingly and intentionally—

"(1) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to violate this section; or

"(2) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to assist in avoiding detection or apprehension for any offense under this

section by any Federal, State, or local law enforcement official,

is punishable by a term of imprisonment, a fine, or both, up to triple those authorized by section 401.".

SEC. 616. INCREASED PENALTIES FOR DRUG TRAFFICKING NEAR PUBLIC HOUSING.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within"; and

(2) in subsection (b) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within".

SEC. 617. INCREASED PENALTIES FOR TRAVEL ACT CRIMES INVOLVING VIOLENCE AND CONSPIRACY TO COMMIT CONTRACT KILLINGS.

(a) TRAVEL ACT PENALTIES.—Section 1952(a) of title 18, United States Code, is amended by striking "and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than five years, or both." and inserting "and thereafter performs or attempts to perform—

"(A) an act described in paragraph (1) or (3) shall be fined under this title, imprisoned not more than 5 years, or both; or

"(B) an act described in paragraph (2) shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be imprisoned for any term of years or for life.".

(b) MURDER CONSPIRACY PENALTIES.—Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

SEC. 618. AMENDMENTS CONCERNING RECORDS OF CRIMES COMMITTED BY JUVENILES.

(a) Section 5038 of title 18, United States Code, is amended by striking subsections (d) and (f), redesignating subsection (e) as subsection (d), and by adding at the end new subsections (e) and (f) as follows:

"(e) Whenever a juvenile has been found guilty of committing an act which if committed by an adult would be an offense described in clause (3) of the first paragraph of section 5032 of this title, the juvenile shall be fingerprinted and photographed, and the fingerprints and photograph shall be sent to the Federal Bureau of Investigation, Identification Division. The court shall also transmit to the Federal Bureau of Investigation, Identification Division, the information concerning the adjudication, including name, date of adjudication, court, offenses, and sentence, along with the notation that the matter was a juvenile adjudication. The fingerprints, photograph, and other records and information relating to a juvenile described in this subsection, or to a juvenile who is prosecuted as an adult, shall be made available in the manner applicable to adult defendants.

"(f) In addition to any other authorization under this section for the reporting, retention, disclosure, or availability of records or information, if the law of the State in which a Federal juvenile delinquency proceeding takes place permits or requires the reporting, retention, disclosure, or availability of records or information relating to a juvenile or to a juvenile delinquency proceeding or adjudication in certain circumstances, then such reporting, retention, disclosure, or availability is permitted under this section whenever the same circumstances exist.".

(b) Section 3607 of title 18, United States Code, is repealed, and the corresponding item in the chapter analysis for chapter 229 of title 18 is deleted.

(c) Section 401(b)(4) of the Controlled Substances Act (21 U.S.C. 841(b)(4)) is amended by striking "and section 3607 of title 18".

SEC. 619. ADDITION OF ANTI-GANG BYRNE GRANT FUNDING OBJECTIVE.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751) is amended—

(1) in paragraph (20) by striking "and" at the end;

(2) in paragraph (21) by striking the period and inserting "; and"; and

(3) by inserting after paragraph (21) the following new paragraph:

"(22) law enforcement and prevention programs relating to gangs, or to youth who are involved or at risk of involvement in gangs.".

Subtitle B—Gang Prosecution

SEC. 621. ADDITIONAL PROSECUTORS.

There is authorized to be appropriated $20,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998 for the hiring of additional Assistant United States Attorneys to prosecute violent youth gangs.

SEC. 22. GANG INVESTIGATION COORDINATION AND INFORMATION COLLECTION.

(a) COORDINATION.—The Attorney General (or the Attorney General's designee), in consultation with the Secretary of the Treasury (or the Secretary's designee), shall develop a national strategy to coordinate gang-related investigations by Federal law enforcement agencies.

(b) DATA COLLECTION.—The Director of the Federal Bureau of Investigation shall acquire and collect information on incidents of gang violence for inclusion in an annual uniform crime report.

(c) REPORT.—The Attorney General shall prepare a report on national gang violence outlining the strategy developed under subsection (a) to be submitted to the President and Congress by January 1, 1995.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for fiscal year 1994.

SEC. 623. CONTINUATION OF FEDERAL-STATE FUNDING FORMULA.

Section 504(a)(1) of title I of the Omnibus Crime and Safe Streets Act of 1968 (42 U.S.C. 3754(a)(1)) is amended by striking "1992" and inserting "1993".

SEC. 624. GRANTS FOR MULTIJURISDICTIONAL DRUG TASK FORCES.

Section 504(f) of title I of the Omnibus Crime and Safe Streets Act of 1968 (42 U.S.C. 3754(f)) is amended by inserting "and gang" after "Except for grants awarded to State and local governments for the purpose of participating in multijurisdictional drug".

Subtitle C—Antigang Provisions

SEC. 631. GRANT PROGRAM.

Part B of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631 et seq.) is amended—

(1) by inserting after the part heading the following subpart heading:

"Subpart I—General Grant Programs";

and

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

"Subpart II—Juvenile Drug Trafficking and Gang Prevention Grants

"FORMULA GRANTS

"SEC. 231. (a) AUTHORIZATION.—The Administrator may make grants to States, units of general local government, private not-for-profit anticrime organizations, or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects, directly or through grants and contracts with public and private agencies, for the development of more effective programs including prevention and enforcement programs to reduce—

"(1) the formation or continuation of juvenile gangs; and

"(2) the use and sale of illegal drugs by juveniles.

"(b) PARTICULAR PURPOSES.—The grants made under this section can be used for any of the following specific purposes:

"(1) To reduce the participation of juveniles in drug-related crimes (including drug trafficking and drug use), particularly in and around elementary and secondary schools.

"(2) To reduce juvenile involvement in organized crime, drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles.

"(3) To develop within the juvenile justice system, including the juvenile corrections system, innovative means to address the problems of juveniles convicted of serious drug-related and gang-related offenses.

"(4) To reduce juvenile drug and gang-related activity in public housing projects.

"(5) To reduce and prevent juvenile drug and gang-related activity in rural areas.

"(6) To provide technical assistance and training to personnel and agencies responsible for the adjudicatory and corrections components of the juvenile justice system to—

"(A) identify drug-dependent or gang-involved juvenile offenders; and

"(B) provide appropriate counseling and treatment to such offenders.

"(7) To promote the involvement of all juveniles in lawful activities, including in-school and after-school programs for academic, athletic, or artistic enrichment that also teach that drug and gang involvement are wrong.

"(8) To facilitate Federal and State cooperation with local school officials to develop education, prevention, and treatment programs for juveniles who are likely to participate in drug trafficking, drug use, or gang-related activities.

"(9) To prevent juvenile drug and gang involvement in public housing projects through programs establishing youth sports and other activities, including girls' and boys' clubs, scout troops, and little leagues.

"(10) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system with the highest possible priority to providing drug abuse treatment to drug-dependent pregnant juveniles and drug-dependent juvenile mothers.

"(11) To provide education and treatment programs for juveniles exposed to severe violence in their homes, schools, or neighborhoods.

"(12) To establish sports mentoring and coaching programs in which athletes serve as role models for juveniles to teach that athletics provides a positive alternative to drug and gang involvement.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 232. There are authorized to be appropriated $100,000,000 for fiscal year 1994 and such sums as are necessary for fiscal year 1995 to carry out this subpart.

"ALLOCATION OF FUNDS

"SEC. 233. The amounts appropriated for this subpart for any fiscal year shall be allocated as follows:

"(1) $500,000 or 1.0 percent, whichever is greater, shall be allocated to each of the States.

"(2) Of the funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount that bears the same ratio to the amount of remaining funds described in this paragraph as the population of juveniles residing in the State bears to the population of juveniles residing in all the States.

"APPLICATION

"SEC. 234. (a) IN GENERAL.—Each State or entity applying for a grant under section 231 shall submit an application to the Administrator in such form and containing such information as the Administrator shall prescribe.

"(b) REGULATIONS.—To the extent practicable, the Administrator shall prescribe regulations governing applications for this subpart that are substantially similar to the regulations governing applications required under subpart I of this part and subpart II of part C, including the regulations relating to competition.".

SEC. 632. CONFORMING REPEALER AND AMENDMENTS.

(a) REPEAL OF PART D.—Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667 et seq.) is repealed, and part E of title II of that Act is redesignated as part D.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 291 of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(1)" and by striking "(other than part D)"; and

(B) by striking paragraph (2); and

(2) in subsection (b) by striking "(other than part D)".

LIEBERMAN AMENDMENT NO. 1141

Mr. LIEBERMAN proposed an amendment to the bill S. 1607, supra; as follows:

On page 53, line 18, strike the period after "death."" and insert "; and by striking ", possessing a firearm as defined in section 921 of this title,"."

DOMENICI AMENDMENT NO. 1142

Mr. HATCH (for Mr. DOMENICI) proposed an amendment to the bill S. 1607, supra; as follows:

At the appropriate place, insert the following:

SECTION 1. DRIVING WHILE INTOXICATED PROSECUTION PROGRAM.

Section 501(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751), as amended by section 621, is amended—

(1) by striking "and" at the end of paragraph (22);

(2) by striking the period at the end of paragraph (23) and inserting "; and"; and

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

"(24) programs for the prosecution of driving while intoxicated charges and the enforcement of other laws relating to alcohol use and the operation of motor vehicles.".

LIEBERMAN AMENDMENT NO. 1143

Mr. LIEBERMAN proposed an amendment to the bill S. 1607, supra; as follows:

At the appropriate place insert the following:

SEC. . VIOLENT CRIME AND DRUG EMERGENCY AREAS.

(A) DEFINITION.—In this section, "major violent crime or drug-related emergency" means an occasion or instance in which violent crime, drug smuggling, drug trafficking, or drug abuse violence reaches such levels, as determined by the President, in consultation with the Attorney General, the Federal assistance is needed to supplement State and local efforts and capabilities to save lives, and to protect property and public health and safety.

(b) DECLARATION OF VIOLENT CRIME AND DRUG EMERGENCY AREAS.—If a major violent crime or drug-related emergency exists throughout a State or a part of a State, the President, in consultation with the Attorney General and other appropriate officials, many declare the State or part of a State to be a violent crime or drug emergency area and may take any and all necessary actions authorized by this section and other law. For the purposes of this section, the term "State" shall be deemed to include the District of Columbia and any United States territory or possession.

(c) PROCEDURE.—

(1) IN GENERAL.—A request for a declaration designating an area to be a violent crime or drug emergency area shall be made, in writing, by the chief executive officers of a State and local government, respectively (or in the case of the District of Columbia, the mayor), and shall be forwarded to the Attorney General in such form as the Attorney General may by regulation require. One or more cities, counties, State, or the District of Columbia may submit a joint request for designation as a major violent crime or drug emergency area under this subsection.

(2) FINDING.—A request made under paragraph (1) shall be based on a written finding that the major violent crime or drug-related emergency is of such severity and magnitude that Federal assistance is necessary to ensure an effective response to save lives and to protect property and public health and safety.

(d) IRRELEVANCY OF POPULATION DENSITY.—The President shall not limit declarations made under this section to highly populated centers of violent crime or drug trafficking, drug smuggling, or drug use, but shall also consider applications from governments of less populated areas where the magnitude severity of such activities is beyond the capability of the State or local government to respond.

(e) REQUIREMENTS.—As part of a request for a declaration under this section, and as prerequisite to Federal violent crime or drug emergency assistance under this section, the chief executive officer of a State or local government shall—

(1) take appropriate action under State or local law and furnish information on the nature and amount of State and local resources that have been or will be committed to alleviating the major violent crime drug-related emergency;

(2) submit a detailed plan outlining that government's short- and long-term plans to respond to the violent crime or drug emergency, specifying the types and levels of Federal assistance requested and including explicit goals (including quantitative goals) and timetables; and

(3) specify how Federal assistance provided under this section is intended to achieve those goals.

(f) REVIEW PERIOD.—The Attorney General shall review a request submitted pursuant to this section, and the President shall decide whether to declare a violent crime or drug emergency area, within 30 days after receiving the request.

(g) FEDERAL ASSISTANCE.—The President may—

(1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including financial assistance, personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts; and

(2) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information; and

(h) DURATION OF FEDERAL ASSISTANCE.—

(1) IN GENERAL.—Federal assistance under this section shall not be provided to a Violent Crime or Drug Emergency Area area for more than 1 year.

(2) EXTENSION.—The chief executive officer of a jurisdiction may apply to the Attorney General for an extension of assistance beyond 1 year. The President, in consultation with the Attorney General, may extend the provision of Federal assistance for not more than an additional 180 days.

(i) REGULATIONS.—Not later than 90 days after the date of the enactment of this Act, the Attorney General shall issue regulations to implement this section.

(j) NO EFFECT ON EXISTING AUTHORITY.—Nothing in this Section shall diminish or detract from existing authority possessed by the President or Attorney General.

LIEBERMAN (AND OTHERS) AMENDMENT NO. 1144

Mr. LIEBERMAN (for himself and Mr. D'AMATO) proposed an amendment to the bill S. 1607, supra; as follows:

At the appropriate place insert the following:

SEC. . PROTECTION OF RECIPIENTS IN TERRORISM REWARDS PROGRAM.

(a) COUNTERTERRORISM REWARDS PROGRAM.—Section 36(e) of the State Department Basic Authorities Act (22 U.S.C. 2708) is amended—

(1) by inserting "(1)" immediately after "(e)"; and

(2) by adding the following to the end of section 36(e):

"(2) RELOCATION OF PROGRAM PARTICIPANTS.—

(A) Whenever the information that would justify a reward under subsection (a) is furnished by an alien, and the Secretary of State and Attorney General jointly determine that the protection of such alien requires the admission of such alien or aliens to the United States, then such alien and the members of the immediate family of the alien, if necessary, may be admitted to the United States without regard to the requirements of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) and shall be eligible for permanent residence as provided in paragraph (4)(A) below.

"(B) The total number of aliens admitted to the United States under subparagraph (A) shall not exceed 25 in any fiscal year.

"(3) CONDITIONS OF ENTRY FOR REWARDS FOR PROGRAM PARTICIPANTS.—(A) Any alien admitted under subsection (e) who otherwise would be inadmissible under sections 212(a)(2) or 212(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1182) shall be admitted and permitted to remain in the United States on the condition that the person:

(i) shall have executed a form that waives the alien's right to contest, other than on the basis of an application for withholding of deportation, any action for deportation of the alien instituted before the alien obtains lawful permanent resident status, (ii) is not convicted of any criminal offense in the United States since the date of such admission, and (iii) shall report not less often than quarterly to the Commissioner of the Immigration and Naturalization Service such information concerning the alien's whereabouts and activities as the Secretary of State and the Attorney General may require.

"(B) The Secretary of State and the Attorney General shall submit a report annually to the Committees on the Judiciary of the House of Representatives and of the Senate concerning (i) the number of such aliens admitted, (ii) the number of terrorist acts prevented, frustrated, or thwarted or prosecutions or investigations resulting form cooperation of such aliens, and (iii) the number of such aliens who have failed to report quarterly (as required under paragraph (3)(A)(i)(I) or who have been convicted of crimes in the United States after the date of their admission.

"(4) ADJUSTMENT TO PERMANENT RESIDENT STATUS.—(A) If, in the opinion of the Attorney General, in consultation with the Secretary of State, the alien admitted into the United States under section 36(e) of the State Department Basic Authorities Act has supplied information that has contributed to the prevention, frustration, or favorable resolution of a terrorist act or has substantially contributed to an authorized investigation or the prosecution of an individual described in section 36(a) (1) and (2) of such section, the Attorney General may adjust the status of the alien (and the alien's immediate relatives if admitted under such section) to that of an alien admitted for permanent residence if the alien is not described in section 212(a)(3)(E) of the Immigration and Nationality Act, provided further that if the alien is subject to paragraph (3)(A) above, such adjustment may be made not earlier than 3 years after the date of admission and upon a determination by the Attorney General in consultation with the Secretary of State that the conditions of paragraph (3)(A) (i) through (iii) have been met.

"(B) Upon the approval of adjustment of status under subparagraph (A), the Attorney General shall record the alien's lawful admission for permanent residence as of the date of such approval and the Secretary of State shall reduce by one the number of visas authorized to be issued under sections 201(d) and 203(b)(4) of the Immigration and Nationality Act for the fiscal year then current.".

(b) EXCLUSIVE MEANS OF ADJUSTMENT.—Section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)), as amended by section 725, is further amended by striking "or" before "(5)" and by inserting before the period the following: "; or (6) an alien who was admitted pursuant to section 36(e) of the State Department Basic Authorities Act".

(c) EXTENDING PERIOD OF DEPORTATION FOR CONVICTION OF A CRIME.—Section 241(a)(2)(A)(i)(I) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)(A)(i)(I)), as amended by section 725, is further amended by inserting "or section 36(e)(4)(A) of the State Department Basic Authorities Act" after section 245(h) in the parenthetical "(or 10 years in the case of an alien provided lawful permanent resident status under section 245(h))".

GORTON AMENDMENT NO. 1145

Mr. GORTON proposed an amendment to the bill S. 1607, supra; as follows:

On page 183, between lines 11 and 12, insert the following new subtitle:

Subtitle .—Sexually Violent Predators

SECTION 1. SHORT TITLE.

This subtitle may be cited as the "Sexually Violent Predators Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) there exists a small but extremely dangerous group of sexually violent persons who do not have a mental disease or defect.

(2) persons who are sexually violent predators generally have antisocial personality features that—

(A) are not amenable to mental illness treatment modalities in existence on the date of enactment of this Act; and

(B) render the persons likely to engage in sexually violent behavior;

(3) the likelihood that sexually violent predators will repeat acts of predatory sexual violence is high; and

(4) the prognosis for curing sexually violent predators is poor and the treatment needs of the population of the predators are very long-term.

SEC. 3. DEFINITIONS.

As used in this subtitle:

(1) MENTAL ABNORMALITY.—The term "mental abnormality" means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes the person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.

(2) PREDATORY.—The term "predatory", with respect to an act, means an act directed towards a stranger, or a person with whom a relationship has been established or promoted, for the primary purpose of victimization.

(3) SEXUALLY VIOLENT OFFENSE.—The term "sexually violent offense" means—

(A) an act that is a violation of title 18, United States Code; or state criminal code that—

(i) involves the use or attempted or threatened use of physical force against the person or property of another person; and

(ii) is determined beyond a reasonable doubt to be sexually motivated.

(4) SEXUALLY VIOLENT PREDATOR.—The term "sexually violent predator" means a person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses.

SEC. 4. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—

(1) STATE GUIDELINES.—In accordance with this section, the Attorney General shall establish guidelines for State programs to require a sexually violent predator to register a current address with a designated State law enforcement agency upon release from prison, being placed on parole, or being placed on supervised release. The Attorney General shall approve each State program that complies with the guidelines.

(2) STATE COMPLIANCE.—

(A) IMPLEMENTATION DATE.—A State that does not implement a program described in paragraph (1) by the date that is 3 years after the date of enactment of this Act, and maintain the implementation thereafter, shall be ineligible for funds in accordance with subparagraph (B).

(B) INELIGIBILITY FOR FUNDS.—

(i) IN GENERAL.—A State that does not implement the program as described in subparagraph (A) shall not receive 10 percent of the funds that would otherwise be allocated to the State under section 506 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756).

(ii) REALLOCATION OF FUNDS.—Funds made available under clause (i) shall be reallocated, in accordance with such section, to such States as implement the program as described in subparagraph (A).

(b) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, OR SUPERVISED RELEASE.—

(1) IN GENERAL.—An approved State program established in accordance with this section shall contain the requirements described in this section.

(2) The determination that a person is a "sexually violent predator" and the determination that a person is no longer a "sexually violent predator" shall be made by the sentencing court after receiving a report by a board of experts on sexual offenses. Each State shall establish a board composed of experts in the field of the behavior and treatment of sexual offenders.

(3) NOTIFICATION.—If a person who is required to register under this section is anticipated to be released from prison, paroled, or placed on supervised release, a State prison officer shall, not later than 90 days before the anticipated date of the release or commencement of the parole—

(A) inform the person of the duty to register;

(B) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing not later than 10 days after the change of address;

(C) obtain the name of the person, identifying factors, anticipated future residence, offense history, and documentation of any treatment received for the mental abnormality or personality disorder of the person; and

(D) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(4) TRANSFER OF INFORMATION TO STATE AND THE FBI.—Not later than 3 days after the receipt of the information described in paragraph (2), the officer shall forward the information to a designated State law enforcement agency. As soon as practicable after the receipt of the information by the State law enforcement agency, the agency shall—

(A) enter the information into the appropriate State law enforcement record system and notify the appropriate law enforcement agency that has jurisdiction over the area in which the person expects to reside; and

(B) transmit the information to the Identification Division of the Federal Bureau of Investigation.

(5) QUARTERLY VERIFICATION.—

(A) MAILING TO PERSON.—Not less than every 90 days after the date of the release or commencement of parole if a person under paragraph (2), the designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person.

(B) RETURN OF VERIFICATION FORM.—

(i) IN GENERAL.—The person shall return, by mail, the verification form to the agency not later than 10 days after the receipt of the form. The verification form shall be signed by the person, and shall state that the person continues to reside at the address last

reported to the designated State law enforcement agency.

(ii) FAILURE TO RETURN.—If the person fails to mail the verification form to the designated State law enforcement agency by the date that is 10 days after the receipt of the form by the person, the person shall be in violation of this section unless the person proves that the person has not changed the residence address of the person.

(6) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESSES.—Any change of address by a person required to register under this section that is reported to the designated State law enforcement agency shall as soon as practicable be reported to the appropriate law enforcement agency that has jurisdiction over the area in which the person is residing.

(7) PENALTY.—A person required to register under a State program established pursuant to this section who knowingly fails to register and keep the registration current shall be subject to criminal penalties in the State. It is the sense of Congress that the penalties should include imprisonment for not less than 180 days.

(8) TERMINATION OF OBLIGATION TO REGISTER.—

The obligation of a person to register under this section shall terminate on a determination made in accordance with the provision of paragraph (2) of this section that the person no longer suffers from a mental abnormality or personality disorder that would make the person likely to engage in a predatory sexually violent offense.

(c) COMMUNITY NOTIFICATION.—The designated State law enforcement agency may release relevant information that is necessary to protect the public concerning a specific sexually violent predator required to register under this section.

(d) IMMUNITY FOR GOOD FAITH CONDUCT.—Law enforcement agencies, employees of law enforcement agencies, and State officials shall be immune from liability for any good faith conduct under this section.

NOTICES OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce that I am introducing titles IV and VII of the President's Government Reform and Savings Act of 1993, which contain the President's reform proposals for the Department of Energy and the Department of the Interior, as separate bills. I would also like to announce that the Committee on Energy and Natural Resources will hold a hearing on these two titles, which contain provisions on the Alaska Power Administration, Federal-private cogeneration of electricity, Power Marketing Authority debt buyouts, the Federal Helium Program, the Minerals Management Service, and the Mineral institute Program.

The hearing will take place on Tuesday, November 16, 1993, at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building, First and C Streets, NE, Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, Attention: Sam Fowler.

For further information, please contact Sam Fowler of the committee staff at (202) 224-7569.

NOTICE OF ADDITION TO HEARING SCHEDULE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce for the public that an additional measure has been added to the hearing previously announced for November 18, 1993, before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources. The additional measure to be considered is S. 1631, a bill to amend the Everglades National Park Protection and Expansion Act of 1989, and for other purposes.

The hearing will take place on Thursday, November 18, 1993, beginning at 9:30 a.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

For further information regarding this hearing, please contact David Brooks of the subcommittee staff at (202) 224-8115.

AUTHORITY FOR COMMITTEES TO MEET

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 Monday, November 8, 1993, at 10 a.m. to hold ambassadorial nomination hearings on Edward Djerejian to be Ambassador to Israel and Marc Ginsberg to be Ambassador to the Kingdom of Morocco.

The PRESIDING OFFICER. Without objection, it so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on mental health and substance abuse under the Health Security Act of 1993, during the session of the Senate on November 8, 1993, at 12 p.m.

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

SUBCOMMITTEE ON AVIATION

Mr. BIDEN. Mr. President, I ask unanimous consent that the Aviation Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet on November 8, 1993, at 2 p.m. on S. 1469, S. 787, and S. 1458, legislation related to aviation competition and safety.

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

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on International Trade of the Committee on Finance be permitted to meet today at 1:30 p.m. to hear testimony on the subject of trade negotiations between the United States and Japan.

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

ADDITIONAL STATEMENTS

HEDWIG DIANE ORLOWSKI

• Mr. RIEGLE. Mr. President, I rise today to pay tribute to Hedwig Diane Orlowski, a nurse from Michigan who served with the 67th Evacuation Hospital during the Vietnam war. Twenty-six years ago this month Heddy Orlowski died along with two of her fellow nurses when her plane attempted to land in bad weather at Qui Nhon. She was just 23 years old.

Heddy studied at the Hurley Medical Center School of Nursing in Flint, MI. In January of 1967, she began her tour of duty in Vietnam at Qui Nhon. She was temporarily assigned to Pleiku to assist with the large number of wounded there. On November 30, 1967, Heddy's plane went down as it returned her to her post.

In observing Veteran's Day this year, I would like to pay special tribute to this outstanding young woman for the ultimate sacrifice she made for our country. At the age of 22, Heddy traveled to Vietnam to provide medical attention and personal support to the young American soldiers who were wounded in the war. During each day of the 11 months she spent in Vietnam, she faced death with courage that few of us possess. She gave all her strength to those who needed her help. Today, her memory is carried on by the people she nursed back to health, as well as her family and friends who loved her.

With the dedication of the Women's Vietnam Veterans Memorial on November 11, our Nation is paying a long-overdue tribute to the service and sacrifice of Hedwig Orlowski and the 11,500 women who served with her in Vietnam. This bronze statue honors all the women who served in Vietnam—those who served with the armed forces, and the volunteers who served with humanitarian organizations such as the USO and the Red Cross.

Like Heddy, these women faced the horrors of the Vietnam conflict on a daily basis. They offered support and comfort to thousands of young men in their final moments of life and they helped save the lives of hundreds of thousands more. The fortitude and courage that these women displayed also helped keep many soldiers from falling into despair. These women deserve recognition for their important

service to their country. The Women's Vietnam Veterans Memorials will help to ease the pain that many of these women still feel. It will also remind Americans today and in future generations of their tremendous courage and let them know that this Nation is grateful for their service.

The women who served in Vietnam were willing to give their lives in service to others and their country; Heddy was 1 of 8 who sacrificed their lives to save the lives of others. The Women's Vietnam Veterans Memorial can never completely make up for the loss of a young woman like Heddy who was so full of life. But it will remind us of the bravery that she displayed and the sacrifice she made. Not only will the soldiers whom she helped always be grateful to her, but all Americans are grateful for Hedwig Diane Orlowski's selfless service to her country. Through this memorial, her memory lives on.•

LEON SHULL CELEBRATES HIS 80TH BIRTHDAY

• Mr. WELLSTONE. Mr. President, I rise to pay tribute to Leon Shull, who is celebrating his 80th birthday today. His brand of progressive activism in the pursuit of social justice deserves our recognition and respect.

Economic and social justice are goals which Leon Shull has promoted his entire life. In 1964, Leon became the national director of Americans for Democratic Action [ADA]. At the helm of ADA, Leon led national fights to bring full civil rights to all Americans. All of us who treasure our constitutional and personal freedoms owe Leon a debt of gratitude. He also worked diligently during his career to end human rights abuses abroad.

In the late 1940's Leon chaired the Philadelphia Council for Equal Job Opportunity. Out of this work was borne his lifelong commitment to workers and minorities, to peace and social justice, and to honesty in government. Very involved in Pennsylvania reform politics, Leon helped to thoroughly reform that State's political machinery. That same reform commitment carried over to the national level in his work in Pennsylvania for Stevenson and Kennedy for President.

As the publisher of the Pennsylvania Guardian, Leon aired his free-thinking, progressive views. From 1950 to 1963, he served as the executive director of the southeastern Pennsylvania chapter of ADA, bringing his expertise to grassroots action. Under Leon's leadership as the national director of ADA, he spearheaded the effort to enact full employment legislation with the passage of the Humphrey-Hawkins full employment bill, which he had originally drafted at an ADA convention 15 years before.

Although he retired from ADA 8 years ago, today Leon remains a stellar volunteer. He serves as the legislative and grassroots coordinator for ADA's work in support of a single-payer health care plan, for full employment, and for realigning our national budget priorities. Over the years this indefatigable man has been right in the middle of ADA efforts to spread the message on civil rights and economic justice. Leon's distinguished career and many contributions is a cause for celebration. Just this past Friday evening, former president of ADA and other friends of Leon's gathered at a dinner celebration in his honor at the Omni Shoreham Hotel and shared their memories of his wonderful work over the years. It was a very meaningful celebration, and much deserved. I am proud to recognize his outstanding work; his commitment to American ideals is an inspiration to all of us.

As he commemorates this significant milestone it is an honor for me to join with Leon's family, many friends and colleagues in conveying my warmest birthday wishes. Congratulations, Leon, on your 80th birthday. May you have continued good health, success, and happiness.•

MEMORIAL TO THE VICTIMS OF THE BOMBING OF PAN AM FLIGHT 103

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 264, Senate Joint Resolution 129, a joint resolution relating to the placement of a memorial cairn in Arlington Cemetery to honor the victims of the Pan Am Flight 103; that the joint resolution be read a third time, passed, the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements appear at the appropriate place in the RECORD.

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

So the joint resolution (S.J. Res. 129) was deemed read the third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 129

Whereas Pan Am Flight 103 was destroyed by a bomb during the flight over Lockerbie, Scotland, on December 21, 1988;

Whereas 270 persons from 21 countries were killed in this terrorist bombing;

Whereas 189 of those killed were citizens of the United States including the following citizens from 21 States, the District of Columbia, and United States citizens living abroad:

ARKANSAS: Frederick Sanford Phillips;

CALIFORNIA: Jerry Don Avritt, Surinder Mohan Bhatia, Stacie Denise Franklin, Matthew Kevin Gannon, Paul Isaac Garrett, Barry Joseph Valentino, Jonathan White;

COLORADO: Steven Lee Butler;

CONNECTICUT: Scott Marsh Cory, Patricia Mary Coyle, Shannon Davis, Turhan Ergin, Thomas Britton Schultz, Amy Elizabeth Shapiro;

DISTRICT OF COLUMBIA: Nicholas Andreas Vrenios;

FLORIDA: John Binning Cummock;

ILLINOIS: Janina Jozefa Waido;

KANSAS: Lloyd David Ludlow;

MARYLAND: Michael Stuart Bernstein, Jay Joseph Kingham, Karen Elizabeth Noonan, Anne Lindsey Otenasek, Anita Lynn Reeves, Louise Ann Rogers, George Watterson Williams, Miriam Luby Wolfe;

MASSACHUSETTS: Julian MacBain Benello, Nicole Elise Boulanger, Nicholas Bright, Gary Leonard Colasanti, Joseph Patrick Curry, Mary Lincoln Johnson, Julianne Frances Kelly, Wendy Anne Lincoln, Daniel Emmett O'Connor, Sarah Susannah Buchanan Philipps, James Andrew Campbell Pitt, Cynthia Joan Smith, Thomas Edwin Walker;

MICHIGAN: Lawrence Ray Bennett, Diane Boatman-Fuller, James Ralph Fuller, Kenneth James Gibson, Pamela Elaine Herbert, Khalid Nazir Jaafar, Gregory Kosmowski, Louis Anthony Marengo, Anmol Rattan, Garima Rattan, Suruchi Rattan, Mary Edna Smith, Arva Anthony Thomas, Jonathan Ryan Thomas, Lawanda Thomas;

MINNESOTA: Philip Vernon Bergstrom;

NEW HAMPSHIRE: Stephen John Boland, James Bruce MacQuarrie;

NEW JERSEY: Thomas Joseph Ammerman, Michael Warren Buser, Warren Max Buser, Frank Ciulla, Eric Michael Coker, Jason Michael Coker, William Allan Daniels, Gretchen Joyce Dater, Michael Joseph Doyle, John Patrick Flynn, Kenneth Raymond Garczynski, William David Giebler, Roger Elwood Hurst, Robert Van Houten Jeck, Timothy Baron Johnson, Patricia Ann Klein, Robert Milton Leckburg, Alexander Lowenstein, Richard Paul Monetti, Martha Owens, Sarah Rebecca Owens, Laura Abigail Owens, Robert Plack Owens, William Pugh, Diane Marie Rencevicz, Saul Mark Rosen, Irving Stanley Sigal, Elia Stratis, Alexia Kathryn Tsairis, Raymond Ronald Wagner, Dedera Lynn Woods, Chelsea Marie Woods, Joe Nathan Woods, Joe Nathan Woods, Jr.;

NEW YORK: John Michael Gerard Ahern, Rachel Maria Asrelsky, Harry Michael Bainbridge, Kenneth John Bissett, Paula Marie Bouckley, Colleen Renee Brunner, Gregory Capasso, Richard Anthony Cawley, Theodora Eugenia Cohen, Joyce Christine Dimauro, Edgar Howard Eggleston III, Arthur Fondiler, Robert Gerard Fortune, Amy Beth Gallagher, Andre Nikolai Guevorgian, Lorraine Buser Halsch, Lynne Carol Hartunian, Katherine Augusta Hollister, Melina Kristina Hudson, Karen Lee Hunt, Kathleen Mary Jermyn, Christopher Andrew Jones, William Chase Leyrer, William Edward Mack, Elizabeth Lillian Marek, Daniel Emmet McCarthy, Suzanne Marie Miazga, Joseph Kenneth Miller, Jewell Courtney Mitchell, Eva Ingeborg Morson, John Mulroy, Mary Denice O'Neill, Robert Italo Pagnucco, Christos Michael Papadopoulos, David Platt, Walter Leonard Porter, Pamela Lynn Posen, Mark Alan Rein, Andrea Victoria Rosenthal, Daniel Peter Rosenthal, Joan Sheanshang, Martin Bernard Carruthers Simpson, James Alvin Smith, James Ralph Stow, Mark Lawrence Tobin, David William Trimmer-Smith, Asaad Eidi Vejdany, Kesha Weedon, Jerome Lee Weston, Bonnie Leigh Williams, Brittany Leigh Williams, Eric Jon Williams, Stephanie Leigh Williams, Mark James Zwynenburg;

NORTH DAKOTA: Steven Russell Berrell;

OHIO: John David Akerstrom, Shanti Dixit, Douglas Eugene Malicote, Wendy Gay Malicote, Peter Raymond Peirce, Michael Pescatore, Peter Vulcu;

PENNSYLVANIA: Martin Lewis Apfelbaum, Timothy Michael Cardwell, David Scott Dornstein, Anne Madelene Gorgacz, Linda Susan Gordon-Gorgacz, Loretta Anne Gorgacz, David J. Gould, Rodney Peter Hilbert, Beth Ann Johnson, Robert Eugene McCollum, Elyse Jeanne Saraceni, Scott Christopher Saunders;

RHODE ISLAND: Bernard Joseph McLaughlin, Robert Thomas Schlageter;

TEXAS: Willis Larry Coursey, Michael Gary Stinnett, Charlotte Ann Stinnett, Stacey Leanne Stinnett;

VIRGINIA: Ronald Albert Lariviere, Charles Dennis McKee;

WEST VIRGINIA: Valerie Canady;

UNITED STATES CITIZENS LIVING ABROAD: Sarah Margaret Aicher, Judith Bernstein Atkinson, William Garretson Atkinson III, Noelle Lydie Berti, Charles Thomas Fisher IV, Lilibeth Tobila Macalolooy, Diane Marie Maslowski, Jane Susan Melber, Jane Ann Morgan, Sean Kevin Mulroy, Jocelyn Reina, Myra Josephine Royal, Irja Syhnove Skabo, Milutin Velimirovich;

Whereas 15 active duty members and at least 10 veterans of the United States Armed Forces and members of their families were among those who lost their lives in this tragedy;

Whereas the terrorist bombing of Flight 103 was unquestionably an attack on the United States;

Whereas a memorial cairn honoring the victims of the bombing of Flight 103 has been donated to the people of the United States by the people of Scotland;

Whereas a small, vacant plot of land, unsuitable for gravesites, has been located in Arlington National Cemetery, Arlington, Virginia; and

Whereas Arlington National Cemetery, Arlington, Virginia, is a fitting and appropriate place for a memorial in honor of those who perished in the Flight 103 bombing: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to place in Arlington National Cemetery, Arlington, Virginia, a memorial cairn, donated by the people of Scotland, honoring the 270 victims of the terrorist bombing of Pan Am Flight 103 who died on December 21, 1988, over Lockerbie, Scotland.

VETERANS' REEMPLOYMENT RIGHTS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Veterans' Affairs Committee be discharged from and the Senate proceed to the immediate consideration of H.R. 995, relating to the veterans' reemployment rights; that all after the enacting clause be stricken and the text of S. 843, as passed the Senate on November 2, be inserted in lieu thereof; that the bill be read a third time, passed, the motion to reconsider be laid upon the table; and that any statements relative to passage of this item appear at the appropriate place in the RECORD.

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

So the bill (H.R. 995), as amended, was deemed read the third time and passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 995) entitled "An Act to amend title 38, United States Code, to improve reemployment rights and benefits of veterans and other benefits of employment of certain members of the uniformed services, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Uniformed Services Employment and Reemployment Rights Act of 1993".

SEC. 2. REVISION OF CHAPTER 43 OF TITLE 38.

(a) RESTATEMENT AND IMPROVEMENT OF EMPLOYMENT AND REEMPLOYMENT RIGHTS.—Chapter 43 of title 38, United States Code, is amended to read as follows:

"CHAPTER 43—EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES

"SUBCHAPTER I—GENERAL

"Sec.
"4301. Purposes; sense of Congress.
"4302. Relation to other law; construction.
"4303. Definitions.
"4304. Character of service.
"SUBCHAPTER II—EMPLOYMENT AND REEMPLOYMENT RIGHTS AND LIMITATIONS; PROHIBITIONS
"4311. Discrimination against persons who serve in the uniformed services and acts of reprisal prohibited.
"4312. Reemployment rights of persons who serve in the uniformed services.
"4313. Reemployment positions.
"4314. Reemployment by the Federal Government.
"4315. Reemployment by certain Federal agencies.
"4316. Rights, benefits, and obligations of persons absent from employment for service in a uniformed service.
"4317. Employee pension benefit plans.
"SUBCHAPTER III—PROCEDURES FOR ASSISTANCE, ENFORCEMENT, AND INVESTIGATION
"4321. Assistance in obtaining reemployment or other employment rights or benefits.
"4322. Enforcement of rights with respect to a State or private employer.
"4323. Enforcement of rights with respect to the Federal executive agencies.
"4324. Enforcement of rights with respect to certain Federal agencies.
"4325. Conduct of investigation; subpoenas.
"SUBCHAPTER IV—MISCELLANEOUS
"4331. Regulations.
"4332. Outreach.

"SUBCHAPTER I—GENERAL

"§4301. Purposes; sense of Congress

"(a) The purposes of this chapter are—

"(1) to encourage noncareer service in the uniformed services by eliminating or minimizing the disadvantages to civilian careers and employment which can result from such service;

"(2) to minimize the disruption to the lives of persons performing service in the uniformed services as well as to their employers, their fellow employees, and their communities, by providing for the prompt reemployment of such persons upon their completion of such service under honorable conditions; and

"(3) to prohibit discrimination against persons because of their service in the uniformed services.

"(b) It is the sense of Congress that the Federal Government should be a model employer in carrying out the provisions of this chapter.

"§4302. Relation to other law; construction

"(a) Nothing in this chapter shall supersede, nullify or diminish any Federal or State law (including any local law or ordinance) or employer practice, policy, agreement, or plan that establishes a right or benefit that is more beneficial to, or is in addition to, a right or benefit provided for such person in this chapter.

"(b) This chapter supersedes any State law (including any local law or ordinance) or employer practice, policy, agreement, or plan that reduces, limits, or eliminates in any manner any right or benefit provided by this chapter, including the establishment of additional prerequisites to the exercise of any such right or the receipt of any such benefit.

"§4303. Definitions

"For the purposes of this chapter—

"(1) The term 'Attorney General' means the Attorney General of the United States or any person designated by the Attorney General to carry out a responsibility of the Attorney General under this chapter.

"(2) The term 'benefit', 'benefit of employment', or 'rights and benefits' means any advantage, profit, privilege, gain, status, account, or interest (other than wages or salary for work performed) that accrues by reason of an employment contract or an employer practice or custom and includes rights and benefits under a pension plan, a health plan, an employee stock ownership plan, insurance coverage and awards, bonuses, severance pay, supplemental unemployment benefits, vacations, and the opportunity to select work hours or location of employment.

"(3)(A) The term 'employee' means any person employed by an employer.

"(B) With respect to employment in a foreign country, the term 'employee' includes an individual who is a citizen of the United States.

"(4)(A) Except as provided in subparagraphs (B) and (C), the term 'employer' means any person, institution, organization, or other entity that pays salary or wages for work performed or that has control over employment opportunities, including—

"(i) a person, institution, organization, or other entity to whom the employer has delegated the performance of employment-related responsibilities;

"(ii) the Federal Government;

"(iii) a State;

"(iv) any successor in interest to a person, institution, organization, or other entity referred to in this subparagraph; and

"(v) a person, institution, organization, or other entity that has denied initial employment in violation of section 4311 of this title.

"(B) In the case of a National Guard technician employed under section 709 of title 32, the term 'employer' means the adjutant general of the State in which the technician is employed.

"(C) Except as an actual employer of employees, an employee pension benefit plan described in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) shall be deemed to be an employer only with respect to the obligation to provide benefits described in section 4317 of this title.

"(5) The term 'Federal executive agency' includes the United States Postal Service, the Postal Rate Commission, any nonappropriated fund instrumentality of the United States, and any Executive agency (as that term is defined in section 105 of title 5) other than an agency referred to in section 2302(a)(2)(C)(ii) of title 5.

"(6) The term 'Federal Government' includes any Federal executive agency, the legislative branch of the United States, and the judicial branch of the United States.

"(7) The term 'health plan' means an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or other arrangement under which health services for individuals are provided or the expenses of such services are paid.

"(8) The term 'notice' means (with respect to subchapter II) any written or verbal notification of an obligation or intention to perform service in the uniformed services provided to an employer by the employee who will perform such service or by the uniformed service in which such service is to be performed.

"(9) The term 'qualified', with respect to an employment position, means having the ability to perform the essential tasks of the position.

"(10) The term 'reasonable efforts', in the case of actions required of an employer under this chapter, means actions, including training provided by an employer, that do not place an undue hardship on the employer.

"(11) The term 'Secretary' means the Secretary of Labor or any person designed by such Secretary to carry out an activity under this chapter.

"(12) The term 'seniority' means longevity in employment together with any benefits of employment which accrue with, or are determined by, longevity in employment.

"(13) The term 'service in the uniformed services' means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty.

"(14) The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and other territories of the United States (including the agencies and political subdivisions thereof).

"(15) The term 'undue hardship', in the case of actions taken by an employer, means actions requiring significant difficulty or expense, when considered in light of—

"(A) the nature and cost of the action needed under this chapter;

"(B) the overall financial resources of the facility or facilities involved in the provision of the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

"(C) the overall financial resources of the employer; the overall size of the business of an employer with respect to the number of its employees; the number, type, and location of its facilities; and

"(D) the type of operation or operations of the employer, including the composition, structure, and functions of the work force of such employer; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the employer.

"(16) The term 'uniformed services' means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or emergency.

"§ 4304. Character of service

"A person's entitlement to the benefits of this chapter by reason of the service of such person in one of the uniformed services terminates upon the occurrence of any of the following events:

"(1) A separation of such person from such uniformed service with a dishonorable or bad conduct discharge.

"(2) A separation of such person from such uniformed service under other than honorable conditions, as characterized pursuant to regulations prescribed by the Secretary concerned.

"(3) A dismissal of such person permitted under section 1161(a) of title 10.

"(4) A dropping of such person from the rolls pursuant to section 1161(b) of title 10.

"SUBCHAPTER II—EMPLOYMENT AND REEMPLOYMENT RIGHTS AND LIMITATIONS; PROHIBITIONS

"§4311. Discrimination against persons who serve in the uniformed services and acts of reprisal prohibited

"(a) A person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment by an employer on the basis of that membership, application for membership, performance, service, application for service, or obligation.

"(b) An employer shall be considered to have denied a person initial employment, reemployment, retention in employment, promotion, or a benefit of employment in violation of this section if the person's membership, application for membership, service, application for service, or obligation for service in the uniformed services is a motivating factor in the employer's action, unless the employer can demonstrate that the action would have been taken in the absence of such membership, application for membership, performance, service, application for service, or obligation.

"(c)(1) An employer may not discriminate in employment against or take any adverse employment action against any person because such person has taken an action to enforce a protection afforded any person under this chapter, has testified or otherwise made a statement in or in connection with any proceeding under this chapter, has assisted or otherwise participated in an investigation under this chapter, or has exercised a right provided for in this chapter.

"(2) The prohibition in paragraph (1) shall apply with respect to a person regardless of whether that person has performed service in the uniformed services.

"(d)(1) An employer may take an action otherwise prohibited by this section with respect to an employee in a workplace in a foreign country if compliance with such section would cause such employer to violate the law of the foreign country in which the workplace is located.

"(2) If an employer controls a corporation incorporated and located in a foreign country, any practice prohibited by this chapter that is engaged in by such corporation shall be presumed to be engaged in by such employer.

"(3)(A) The prohibitions of this section shall not apply to a foreign employer not controlled by an American employer.

"(B) For purposes of this paragraph the determination of whether an employer controls a corporation shall be based on—

"(i) the interrelation of operations;

"(ii) the common management;

"(iii) the centralized control of labor relations; and

"(iv) the common ownership or financial control of the employer and the corporation.

"§4312. Reemployment rights of persons who serve in the uniformed services

"(a) Subject to subsections (b), (c), and (d), any person who is absent from a position of employment by reason of service in the uniformed services shall be entitled to the reemployment rights and benefits and other employment benefits of this chapter if—

"(1) the person (or an appropriate officer of the uniformed service in which such service is performed) has given advance written or verbal notice of such service to such person's employer;

"(2) the cumulative length of the absence and of all previous absences from a position of employment with that employer by reason of service in the uniformed services does not exceed five years; and

"(3) the person reports to, or submits an application for reemployment to, such employer in accordance with subsection (e).

"(b) No notice is required under subsection (a)(1) if the giving of such notice is precluded by military necessity or the giving of such notice is otherwise impossible or unreasonable. A determination of military necessity for the purposes of this subsection shall be made pursuant to regulations prescribed by the Secretary of Defense and shall not be subject to judicial review.

"(c) Subsection (a) shall apply to a person who is absent from a position of employment by reason of service in the uniformed services if such person's cumulative period of service in the uniformed services, with respect to the employer relationship for which a person seeks reemployment, does not exceed five years, except that any such period of service shall not include any service—

"(1) that is required, beyond five years, to complete an initial period of obligated service;

"(2) during which such person was unable to obtain orders releasing such person from a period of service in the uniformed services before the expiration of such five-year period and such inability was through no fault of such person;

"(3) performed as required pursuant to section 270 of title 10, under section 502(a) or 503 of title 32, or to fulfill additional training requirements determined and certified in writing by the Secretary concerned, to be necessary for professional development, or for completion of skill training or retraining; or

"(4) performed by a member of a uniformed service who is—

"(A) ordered to or retained on active duty under section 672(a), 672(g), 673, 673b, 673c, or 688 of title 10 or under section 331, 332, 359, 360, 367, or 712 of title 14;

"(B) ordered to or retained on active duty (other than for training) under any provision of law during a war or during a national emergency declared by the President or the Congress;

"(C) ordered to active duty (other than for training) in support, as determined by the Secretary concerned, of an operational mission for which personnel have been ordered to active duty under section 673b of title 10;

"(D) ordered to active duty in support, as determined by the Secretary concerned, of a critical mission or requirement of the uniformed services; or

"(E) called into Federal service as a member of the National Guard under chapter 15 of title 10 or under section 3500 or 8500 of title 10.

"(d)(1) An employer is not required to reemploy a person under this chapter if—

"(A) the employer's circumstances have so changed as to make such reemployment impossible or unreasonable; or

"(B) in the case of a person entitled to reemployment under subsection (a)(3), (a)(4), or (b)(2)(B) of section 4313 of this title, such employment would impose an undue hardship on the employer.

"(2) In any proceeding involving an issue of whether—

"(A) any reemployment referred to in paragraph (1) is impossible or unreasonable because of a change in an employer's circumstances, or

"(B) any accommodation, training, or effort referred to in subsection (a)(3), (a)(4), or (b)(2)(B) of section 4313 of this title would impose an undue hardship on the employer,

the employer shall have the burden of proving the impossibility or unreasonableness or undue hardship.

"(e)(1) Subject to paragraph (2), a person referred to in subsection (a) shall, upon the completion of a period of service in the uniformed

services, notify the employer referred to in such subsection of the person's intent to return to a position of employment with such employer as follows:

"(A) In the case of a person whose period of service in the uniformed services was less than 31 days, by reporting to the employer—

"(i) not later than the beginning of the first full regularly scheduled work period on the first full calendar day following the completion of the period of service and the expiration of eight hours after a period allowing for the safe transportation of the person from the place of that service to the person's residence; or

"(ii) as soon as possible after the expiration of the eight-hour period referred to in clause (i), if reporting within the period referred to in such clause is impossible or unreasonable through no fault of the person.

"(B) In the case of a person who is absent from a position of employment for a period of any length for the purposes of an examination to determine the person's fitness to perform service in the uniformed services, by reporting in the manner and time referred to in subparagraph (A).

"(C) In the case of a person whose period of service in the uniformed services was for more than 30 days but less than 181 days, by submitting an application for reemployment with the employer not later than 14 days after the completion of the period of service.

"(D) In the case of a person whose period of service in the uniformed services was for more than 180 days, by submitting an application for reemployment with the employer not later than 90 days after the completion of the period of service.

"(2)(A) A person who is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated by, the performance of service in the uniformed services shall, at the end of the period that is necessary for the person to recover from such illness or injury, report to the person's employer (in the case of a person described in subparagraph (A) or (B) of paragraph (1)) or submit an application for reemployment with such employer (in the case of a person described in subparagraph (C) or (D) of such paragraph). Except as provided in subparagraph (B), such period of recovery may not exceed two years.

"(B) Such two-year period shall be extended by the minimum time required to accommodate the circumstances beyond such person's control which make reporting within the period specified in subparagraph (A) impossible or unreasonable.

"(3) A person who fails to report for employment or reemployment within the appropriate period specified in this subsection shall not automatically forfeit such person's entitlement to the rights and benefits referred to in subsection (a) but shall be subject to the conduct rules, established policy, and general practices of the employer pertaining to explanations and discipline with respect to absence from scheduled work.

"(f)(1) A person who submits an application for reemployment in accordance with subparagraph (C) or (D) of subsection (e)(1) or subsection (e)(2) shall provide to the person's employer (upon the request of such employer) documentation to establish that—

"(A) the person's application is timely;

"(B) the person has not exceeded the service limitations set forth in subsection (a)(2) (except as permitted under subsection (c)); and

"(C) the person's entitlement to the benefits under this chapter has not been terminated pursuant to section 4304 of this title.

"(2) Documentation of any matter referred to in paragraph (1) that satisfies regulations prescribed by the Secretary shall satisfy the documentation requirements in such paragraph.

"(3)(A) Except as provided in subparagraph (B), the failure of a person to provide documentation that satisfies regulations prescribed pursuant to paragraph (2) shall not be a basis for denying reemployment in accordance with the provisions of this chapter if the failure occurs because such documentation does not exist or is not readily available at the time of the request of the employer. If, after such reemployment, documentation becomes available that establishes that such person does not meet one or more of the requirements referred to in subparagraphs (A), (B), and (C) of paragraph (1), the employer of such person may terminate the employment of the person and the provision of any rights or benefits afforded the person under this chapter.

"(B) An employer who reemploys a person absent from a position of employment for more than 90 days may require that the person provide the employer with the documentation referred to in subparagraph (A) before beginning to treat the person as not having incurred a break in service for pension purposes under section 4317(a)(2)(A) of this title.

"(4) An employer may not delay or attempt to defeat a reemployment obligation by demanding documentation that does not then exist or is not then readily available.

"(g) The right of a person to reemployment under this section shall not entitle such person to retention, preference, or displacement rights over any person with a superior claim under the provisions of title 5, United States Code, relating to veterans and other preference eligibles.

"(h) In any determination of a person's entitlement to protection under this chapter, the timing, frequency, and duration of the person's training or service, or the nature of such training or service (including voluntary service) in the uniformed services, shall not be a basis for denying protection of this chapter if the service does not exceed the limitations set forth in subsection (c) and the notice requirements established in subsection (a)(1) and the notification requirements established in subsection (e) are met.

"§4313. Reemployment positions

"(a) Subject to subsection (b) (in the case of any employee) and section 4314 of this title (in the case of an employee of the Federal Government), a person entitled to reemployment under section 4312 of this title upon completion of a period of service in the uniformed services shall be promptly reemployed in a position of employment in accordance with the following order of priority:

"(1) Except as provided in paragraphs (3) and (4), in the case of a person whose period of service in the uniformed services was for less than 31 days—

"(A) in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, the duties of which the person is qualified to perform; or

"(B) if the person is not qualified to perform the duties of the position referred to in subparagraph (A), after reasonable efforts by the employer to qualify the person, in the position of employment in which the person was employed on the date of the commencement of the service in the uniformed services.

"(2) Except as provided in paragraphs (3) and (4), in the case of a person whose period of service in the uniformed services was for more than 30 days—

"(A) in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, or a position of like seniority, status, and pay, the duties of which the person is qualified to perform; or

"(B) if the person is not qualified to perform the duties of a position referred to in subparagraph (A), after reasonable efforts by the employer to qualify the person, in the position of employment in which the person was employed on the date of the commencement of the service in the uniformed services, or a position of like seniority, status and pay, the duties of which the person is qualified to perform.

"(3) In the case of a person who has a disability incurred in, or aggravated by, such service, and who (after reasonable efforts by the employer to accommodate the disability) is not qualified due to such disability to be employed in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service—

"(A) in any other position which is equivalent in seniority, status, and pay, the duties of which the person is qualified to perform or would become qualified to perform with reasonable efforts by the employer; or

"(B) if not employed under subparagraph (A), in a position which is the nearest approximation to a position referred to in subparagraph (A) in terms of seniority, status, and pay consistent with circumstances of such person's case.

"(4) In the case of a person who (A) is not qualified to be employed in (i) the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, or (ii) in the position of employment in which such person was employed on the date of the commencement of the service in the uniform services for any reason (other than disability incurred in, or aggravated by, service in the uniformed services), and (B) cannot become qualified with reasonable efforts by the employer, in any other position of lesser status and pay which such person is qualified to perform, with full seniority.

"(b)(1) If two or more persons are entitled to reemployment under section 4312 of this title in the same position of employment and more than one of them has reported for such reemployment, the person who left the position first shall have the prior right to reemployment in that position.

"(2) Any person entitled to reemployment under section 4312 of this title who is not reemployed in a position of employment by reason of paragraph (1) shall be entitled to be reemployed as follows:

"(A) Except as provided in subparagraph (B), in any other position of employment referred to in subsection (a)(1) or (a)(2), as the case may be (in the order of priority set out in the applicable subsection), that provides a similar status and pay to a position of employment referred to in paragraph (1) of this subsection, consistent with circumstances of such person's case, with full seniority.

"(B) In the case of a person who has a disability incurred in, or aggravated by, service in the uniformed services that requires reasonable efforts by the employer for the person to be able to perform the duties of the position of employment, in any position referred to in subsection (a)(3) (in the order of priority set out in that subsection) that provides a similar status and pay to a position referred to in paragraph (1), consistent with circumstances of such person's case, with full seniority.

"§4314. Reemployment by the Federal Government

"(a) Except as provided in subsections (b), (c), and (d), if a person is entitled to reemployment by the Federal Government under section 4312 of this title, such person shall be reemployed in a position of employment as described in section 4313 of this title.

"(b)(1) If the Director of the Office of Personnel Management makes a determination described in paragraph (2) with respect to a person who was employed by a Federal executive agency at the time the person entered the service from which the person seeks reemployment under this section, the Director shall—

"(A) identify a position of like seniority, status, and pay at another Federal executive agency that satisfies the requirements of section 4313 of this title and for which the person is qualified; and

"(B) ensure that the person is offered such position.

"(2) The Director shall carry out the duties referred to in subparagraphs (A) and (B) of paragraph (1) if the Director determines that—

"(A) the Federal executive agency that employed the person referred to in such paragraph no longer exists and the functions of such agency have not been transferred to another Federal executive agency; or

"(B) it is impossible or unreasonable for the agency to reemploy the person.

"(c) If the employer of a person described in subsection (a) was, at the time such person entered the service from which such person seeks reemployment under this section, a part of the judicial branch or the legislative branch of the Federal Government, and such employer determines that it is impossible or unreasonable for such employer to reemploy such person, such person shall, upon application to the Director of the Office of Personnel Management, be ensured an offer of employment in an alternative position in a Federal executive agency on the basis described in subsection (b).

"(d) If the adjutant general of a State determines that it is impossible or unreasonable to reemploy a person who was a National Guard technician employed under section 709 of title 32, such person shall, upon application to the Director of the Office of Personnel Management, be ensured an offer of employment in an alternative position in a Federal executive agency on the basis described in subsection (b).

"§4315. Reemployment by certain Federal agencies

"(a) The head of each agency referred to in section 2302(a)(2)(C)(ii) of title 5 shall prescribe procedures for ensuring that the rights under this chapter apply to the employees of such agency.

"(b) In prescribing procedures under subsection (a), the head of an agency referred to in that subsection shall ensure, to the maximum extent practicable, that the procedures of the agency for reemploying persons who serve in the uniformed services provide for the reemployment of such persons in the agency in a manner similar to the manner of reemployment described in section 4313 of this title.

"(c)(1) The regulations prescribed under subsection (a) shall designate an official at the agency who shall determine whether or not the reemployment of a person referred to in subsection (b) by the agency is impossible or unreasonable.

"(2) Upon making a determination that the reemployment by the agency of a person referred to in subsection (b) is impossible or unreasonable, the official referred to in paragraph (1) shall notify the person and the Director of the Office of Personnel Management of such determination.

"(3) A determination pursuant to this subsection shall not be subject to judicial review.

"(4) The head of each agency referred to in subsection (a) shall submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives on an annual basis a report on the number of persons whose reemployment with the agency was determined under this subsection to be impossible or unreasonable during the year preceding the report, including the reason for each such determination.

"(d)(1) Except as provided in this section, nothing in this section, section 4313 of this title, or section 4324 of this title shall be construed to exempt any agency referred to in subsection (a) from compliance with any other substantive provision of this chapter.

"(2) This section may not be construed—

"(A) as prohibiting an employee of an agency referred to in subsection (a) from seeking information from the Secretary regarding assistance in seeking reemployment from the agency under this chapter, alternative employment in the Federal Government under this chapter, or information relating to the rights and obligations of employee and Federal agencies under this chapter; or

"(B) as prohibiting such an agency from voluntarily cooperating with or seeking assistance in or of clarification from the Secretary or the Director of the Office of Personnel Management of any matter arising under this chapter.

"(e) The Director of the Office of Personnel Management shall ensure the offer of employment to a person in a position in a Federal executive agency on the basis described in subsection (b) if—

"(1) the person was an employee of an agency referred to in section 2302(a)(2)(C)(ii) of title 5 at the time the person entered the service from which the person seeks reemployment under this section;

"(2) the appropriate officer of the agency determines under section 4315(c) of this title that reemployment of the person by the agency is impossible or unreasonable; and

"(3) the person submits an application to the Director for an offer of employment under this subsection.

"§4316. Rights, benefits, and obligations of persons absent from employment for service in a uniformed service

"(a) A person who is reemployed under this chapter after a period of service in the uniformed services is entitled to the seniority and other rights and benefits determined by seniority that the person had on the date of the commencement of such service plus the additional seniority and rights and benefits that such person would have attained if the person had remained continuously employed.

"(b)(1)(A) Subject to paragraphs (2) through (6), a person who performs service in the uniformed services shall be—

"(i) deemed to be on furlough or leave of absence while performing such service; and

"(ii) entitled to such other rights and benefits not determined by seniority as are generally provided by the employer of the person to employees having similar seniority, status, and pay who are on furlough or leave of absence under a practice, policy, agreement, or plan in effect at the commencement of such service or established while such person performs such service.

"(B) Such person may be required to pay the employee cost, if any, of any funded benefit continued pursuant to subparagraph (A) to the extent other employees on furlough or leave of absence are so required. In the case of a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(37)), any liability of the plan arising under this paragraph shall be allocated by the plan in such manner as the sponsor maintaining the plan may provide (or, if the sponsor does not so provide, shall be allocated to the last employer employing the person before the period served by the person in the uniformed services).

"(2) A person deemed to be on furlough or leave of absence under this subsection while serving in the uniformed services shall not be entitled under this subsection to any benefits which the person would not otherwise be entitled if the person were not on a furlough or leave of absence.

"(3) A person is not entitled under this subsection to coverage under a health plan to the extent that the person is entitled to care or treatment from the Federal Government as a result of such person's service in the uniformed services.

"(4) A person is not entitled under this subsection to coverage, under a disability insurance policy, of an injury or disease incurred or aggravated during a period of active duty service in excess of 31 days to the extent such coverage is excluded or limited by a provision of such policy.

"(5) A person is not entitled under this subsection to coverage, under a life insurance policy, of a death incurred by the person as a result of the person's participation in, or assignment to an area of, armed conflict to the extent that such coverage is excluded or limited by a provision of such policy.

"(6) The requirement that an employer provide rights or benefits under paragraph (1) to a person deemed to be on furlough or leave of absence shall expire on the earlier of—

"(A) the date of the end of the 18-month period that begins on the date on which the person commences the performance of the service referred to in paragraph (1); or

"(B) the date of the expiration of the person's obligation with respect to such service to notify the person's employer of the person's intent to return to a position of employment under section 4312(e) of this title.

"(7) The entitlement of a person to a right or benefit under an employee pension benefit plan is provided for under section 4317 of this title.

"(c)(1)(A) Subject to paragraphs (2) and (3), if a person's employer-sponsored health-plan coverage would otherwise terminate due to an extended absence from employment for purposes of performing service in the uniformed services, the person may elect to continue health-plan coverage acquired through civilian employment in accordance with this paragraph so that such coverage continues for not more than 18 months after such absence begins.

"(B) A person who elects to continue health-plan coverage under this paragraph may be required to pay not more than 102 percent of the full premium (determined in the same manner as the applicable premium under section 4980B(f)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 4980B(f)(4))) associated with such coverage for the employer's other employees, except that in the case of a person who performs a period of service in the uniformed services for less than 31 days, such person may not be required to pay more than the employee share, if any, for such coverage.

"(C) In the case of a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(37)), any liability of the plan arising under this paragraph shall be allocated by the plan in such manner as the sponsor maintaining the plan may provide (or, if the sponsor does not so provide, shall be allocated to the last employer employing the person before the period served by the person in the uniformed services).

"(2) A person who elects to continue health-plan coverage under this subsection shall not be entitled to coverage under the plan to the extent that the person is entitled to care or treatment from the Federal Government as a result of such person's service in the uniformed services.

"(3) The period of coverage of a person and the person's dependents under a continuation of health-plan coverage elected by the person under this subsection shall be the lesser of—

"(A) the 18-month period beginning on the date on which the absence referred to in paragraph (1) begins; or

"(B) the aggregate of the period of the person's service in the uniformed services and the period in which the person is required to notify the person's employer of the person's intent to return to a position of employment under section 4312(e) of this title.

"(d)(1) Except as provided in paragraph (2), in the case of a person whose coverage by an employer-sponsored health plan as an employee is terminated by reason of the service of such person in the uniformed services, an exclusion or waiting period may not be imposed in connection with the reinstatement of the coverage of the person upon reemployment under this chapter, or in connection with any other individual who is covered by the health plan by reason of the reinstatement of the coverage of such person upon reemployment, if an exclusion or waiting period would not have been imposed under such health plan had coverage of such person by such health plan not been terminated as a result of such service.

"(2) Paragraph (1) shall not apply to the condition of a person if the Secretary determines that the condition was incurred or aggravated during active military, naval, or air service.

"(e) A person who is reemployed by an employer under this chapter shall not be discharged from such employment, except for cause—

"(1) within one year after the date of such reemployment, if the person's period of service before the reemployment was more than 180 days; or

"(2) within 180 days after the date of such reemployment, if the person's period of service before the reemployment was more than 30 days but less than 181 days.

"(f)(1) Any person described in paragraph (2) whose employment with an employer referred to in that paragraph is interrupted by a period of service in the uniformed services shall be permitted, upon request of that person, to use during such period of service any vacation or annual leave with pay accrued by the person before the commencement of such service.

"(2) A person entitled to the benefit described in paragraph (1) is a person who—

"(A) has accrued vacation or annual leave with pay under a policy or practice of a State (as an employer) or private employer; or

"(B) has accrued such leave as an employee of the Federal Government pursuant to subchapter I of chapter 63 of title 5.

"§4317. Employee pension benefit plans

"(a)(1)(A) Except as provided in subparagraph (B), in the case of a right provided pursuant to an employee pension benefit plan described in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) or a right provided under any Federal or State law governing pension benefits for governmental employees, the right to pension benefits of a person reemployed under this chapter shall be determined under this section.

"(B) In the case of benefits under the Thrift Savings Plan, the rights of a person reemployed under this chapter shall be those rights provided in section 8432b of title 5. This subparagraph shall not be construed to affect any other right or benefit under this chapter.

"(2)(A) Except as provided in section 4312(f)(3)(B) of this title, a person reemployed under this chapter shall be treated as not having incurred a break in service with the employer or employers maintaining the plan by reason of such person's period or periods of service in the uniformed services.

"(B) Each period served by a person in the uniformed services shall, upon reemployment under this chapter, be deemed to constitute service with the employer or employers maintaining the plan for purpose of determining the nonforfeitability of the person's accrued benefits and for the purpose of determining the accrual of benefits under the plan.

"(b)(1) An employer reemploying a person under this chapter shall be liable to an employee benefit pension plan for funding any obligation of the plan to provide the benefits described in subsection (a)(2). For purposes of determining the amount of such liability and for purposes of section 515 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1145) or any similar Federal or State law governing pension benefits for governmental employees, service in the uniformed services that is deemed under subsection (a) to be service with the employer shall be deemed to be service with the employer under the terms of the plan or any applicable collective bargaining agreement. In the case of a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(37)), any liability of the plan described in this paragraph shall be allocated by the plan in such manner as the sponsor maintaining the plan may provide (or, if the sponsor does not so provide, shall be allocated to the last employer employing the person before the period described in subsection (a)(2)(B)).

"(2) A person reemployed under this chapter shall be entitled to accrued benefits pursuant to subsection (a) that are contingent on the making of, or derived from, employee contributions or elective deferrals only to the extent the person elects to make employee contributions or elective deferrals that are attributable to the period of service described in subsection (a)(2)(B). No such contributions or deferrals may exceed the amount the person or employer would have been permitted or required to make had the person remained continuously employed by the employer throughout the period of service described in subsection (a)(2)(B). Any employee contribution or deferral to the plan described in this paragraph shall be made during any reasonable continuous period (beginning with the date of reemployment) as the employer and the person may agree but in no event shall such person be afforded a payment period shorter than the length of absence for service for which the payments are due.

"(3) For purposes of computing an employer's liability under paragraph (1) or the employee's contributions under paragraph (2), the employee's compensation during the period of service described in subsection (a)(2)(B)—

"(A) shall be computed at the rate the employee would have received but for the absence during the period of service; or

"(B) if the employee's compensation was not based on a fixed rate, shall be computed on the basis of the employee's average rate of compensation during the 12-month period immediately preceding such period (or, if shorter, the period of employment immediately preceding such period).

"(4) Notwithstanding any other provision of this section—

"(A) no earnings shall be credited to an employee with respect to any contribution prior to such contribution being made; and

"(B) any forfeitures during the period described in subsection (a)(2)(B) shall not be allocated to persons reemployed under this chapter.

"(c) Any employer who reemploys a person under this chapter and who is an employer contributing to a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(37)), under which benefits are or may be payable to such person by reason of the obligations set forth in this chapter, shall, within 30 days after the date of such reemployment, provide notice of such reemployment to the administrator of such plan.

"(d) No provision of this section shall apply to the extent it—

"(1) requires any action to be taken which would cause the plan, any of its participants, or employer to suffer adverse tax or other consequences under the Internal Revenue Code of 1986; or

"(2) requires contributions to be returned or reallocated, or additional contributions to be made, with respect to employees not reemployed under this chapter.

"SUBCHAPTER III—PROCEDURES FOR ASSISTANCE, ENFORCEMENT, AND INVESTIGATION

"§4321. Assistance in obtaining reemployment or other employment rights or benefits

"(a) The Secretary (through the Veterans' Employment and Training Service) shall provide assistance to any person with respect to the employment and reemployment rights and benefits to which such person is entitled under this chapter. In providing such assistance, the Secretary may request the assistance of existing Federal and State agencies engaged in similar or related activities and utilize the assistance of volunteers.

"(b)(1)(A) A person referred to in subparagraph (B) may submit a complaint to the Secretary with respect to the matters described in clause (ii) of such subparagraph. Such complaint shall be submitted in accordance with subsection (c).

"(B) A person may submit a complaint under subparagraph (A) if the person claims—

"(i) to be entitled under this chapter to employment or reemployment rights or benefits with respect to employment by an employer; and

"(ii) that the employer (including the Office of Personnel Management, if the employer is the Federal Government) has failed or refused, or is about to fail or refuse, to comply with the provisions of this chapter.

"(2) The Secretary shall, upon request, provide technical assistance to a potential claimant with respect to a complaint under this subsection, and to such claimant's employer.

"(c) A complaint submitted under subsection (b) shall be in a form prescribed by the Secretary and shall include—

"(1) the name and address of the employer or potential employer against whom the complaint is directed; and

"(2) a summary of the allegations upon which the complaint is based.

"(d) The Secretary shall investigate each complaint submitted pursuant to subsection (b). If the Secretary determines as a result of the investigation that the action alleged in such complaint occurred, the Secretary shall resolve the complaint by making reasonable efforts to ensure that the person or entity named in the complaint complies with the provisions of this chapter.

"(e) If the efforts of the Secretary with respect to a complaint under subsection (d) are unsuccessful, the Secretary shall notify the person who submitted the complaint of—

"(1) the results of the Secretary's investigation; and

"(2) the complainant's entitlement to proceed under the enforcement of rights provisions provided under section 4322 of this title (in the case of a person submitting a complaint against a State or private employer) or section 4323 of this title (in the case of a person submitting a complaint against the Federal Government).

"(f) This subchapter does not apply to any action relating to benefits to be provided under the Thrift Savings Plan under title 5.

"§4322. Enforcement of rights with respect to a State or private employer

"(a)(1) A person who receives from the Secretary a notification pursuant to section 4321(e) of this title of an unsuccessful effort to resolve a complaint relating to a State (as an employer)

or a private employer may request that the Secretary refer the complaint to the Attorney General. If the Attorney General is reasonably satisfied that the person on whose behalf the complaint is referred is entitled to the rights or benefits sought, the Attorney General may appear on behalf of, and act as attorney for, the person on whose behalf the complaint is submitted and commence an action for appropriate relief for such person in an appropriate United States district court.

"(2)(A) A person referred to in subparagraph (B) may commence an action for appropriate relief in an appropriate United States district court.

"(B) A person entitled to commence an action for relief with respect to a complaint under subparagraph (A) is a person who—

"(i) has chosen not to apply to the Secretary for assistance regarding the complaint under section 4321(c) of this title;

"(ii) has chosen not to request that the Secretary refer the complaint to the Attorney General under paragraph (1); or

"(iii) has been refused representation by the Attorney General with respect to the complaint under such paragraph.

"(b) In the case of an action against a State as an employer, the appropriate district court is the court for any district in which the State exercises any authority or carries out any function. In the case of a private employer the appropriate district court is the district court for any district in which the private employer of the person maintains a place of business.

"(c)(1)(A) The district courts of the United States shall have jurisdiction, upon the filing of a complaint, motion, petition, or other appropriate pleading by or on behalf of the person entitled to a right or benefit under this chapter—

"(i) to require the employer to comply with the provisions of this chapter;

"(ii) to require the State or private employer, as the case may be, to compensate the person for any loss of wages or benefits suffered by reason of such employer's failure to comply with the provisions of this chapter; and

"(iii) to require the employer to pay the person an amount equal to the amount referred to in clause (ii) as liquidated damages, if the court determines that the employer's failure to comply with the provisions of this chapter was willful.

"(B) Any compensation under clauses (ii) and (iii) of subparagraph (A) shall be in addition to, and shall not diminish, any of the other rights and benefits provided for in this chapter.

"(2)(A) No fees or court costs shall be charged or taxed against any person claiming rights under this chapter.

"(B) In any action or proceeding to enforce a provision of this chapter by a person under subsection (a)(2) who obtained private counsel for such action or proceeding, the court may award any such person who prevails in such action or proceeding reasonable attorney fees, expert witness fees, and other litigation expenses.

"(3) The court may use its full equity powers, including temporary or permanent injunctions and temporary restraining orders, to vindicate fully the rights or benefits of persons under this chapter.

"(4) An action under this chapter may be initiated only by a person claiming rights or benefits under this chapter, and not by an employer, prospective employer, or other entity with obligations under this chapter.

"(5) In any such action, only a State and local government (as an employer), an employer, or a potential employer, as the case may be, shall be a necessary party respondent.

"(6) No State statute of limitations shall apply to any proceeding under this chapter.

"(7) A State shall be subject to the same remedies, including prejudgment interest, as may be imposed upon any private employer under this section.

"§4323. Enforcement of rights with respect to Federal executive agencies

"(a)(1) A person who receives from the Secretary a notification pursuant to section 4321(e) of this title of an unsuccessful effort to resolve a complaint relating to a Federal executive agency may request that the Secretary refer the complaint for litigation before the Merit Systems Protection Board. The Secretary shall refer the complaint to the Office of Special Counsel established by section 1211 of title 5.

"(2)(A) If the Special Counsel is reasonably satisfied that the person on whose behalf a complaint is referred under paragraph (1) is entitled to the rights or benefits sought, the Special Counsel (upon the request of the person submitting the complaint) may appear on behalf of, and act as attorney for, the person and initiate an action regarding such complaint before the Merit Systems Protection Board.

"(B) If the Special Counsel decides not to initiate an action and represent a person before the Merit Systems Protection Board under subparagraph (A), the Special Counsel shall notify such person of that decision.

"(b)(1) A person referred to in paragraph (2) may submit a complaint against a Federal executive agency under this subchapter directly to the Merit Systems Protection Board. A person who seeks a hearing or adjudication by submitting such a complaint under this paragraph may be represented at such hearing or adjudication in accordance with the rules of the Board.

"(2) A person entitled to submit a complaint to the Merit Systems Protection Board under paragraph (1) is a person who—

"(A) has chosen not to apply to the Secretary for assistance regarding a complaint under section 4321(c) of this title;

"(B) has received a notification from the Secretary under section 4321(e) of this title;

"(C) has chosen not to be represented before the Board by the Special Counsel pursuant to subsection (a)(2)(A); or

"(D) has received a notification of a decision from the Special Counsel under subsection (a)(2)(B).

"(c)(1) The Merit Systems Protection Board shall adjudicate any complaint brought before the Board pursuant to subsection (a)(2)(A) or (b)(1).

"(2) If the Board determines that a Federal executive agency has not complied with the provisions of this chapter relating to the employment or reemployment of a person by the agency, the Board shall enter an order requiring the agency or employee to comply with such provisions and to compensate such person for any loss of wages or benefits suffered by such person by reason of such lack of compliance.

"(3) Any compensation received by a person pursuant to an order under paragraph (1) shall be in addition to any other right or benefit provided for by this chapter and shall not diminish any such right or benefit.

"(4) If the Board determines as a result of a hearing or adjudication conducted pursuant a complaint submitted by a person directly to the Board pursuant to subsection (b)(1) that such person is entitled to an order referred to in paragraph (2), the Board may, in its discretion, award such person reasonable attorney fees, expert witness fees, and other litigation expenses.

"(d) A person adversely affected or aggrieved by a final order or decision of the Merit Systems Protection Board under subsection (c) may petition the United States Court of Appeals for the Federal Circuit to review the final order or decision. Such petition and review shall be in accordance with the procedures set forth in section 7703 of title 5.

"(e) A person may be represented by the Special Counsel in an action for review of a final order or decision issued by the Merit Systems Protection Board pursuant to subsection (c) that is brought pursuant to section 7703 of title 5 unless the person was not represented by the Special Counsel before the Merit Systems Protection Board regarding such order or decision.

"§4324. Enforcement of rights with respect to certain Federal agencies

"(a) This section applies to any person who alleges that—

"(1) the reemployment of such person by an agency referred to in subsection (a) of section 4315 of this title was not in accordance with procedures for the reemployment of such person under subsection (b) of such section; or

"(2) the failure of such agency to reemploy the person under such section was otherwise wrongful.

"(b) Any person referred to in subsection (a) may submit a claim relating to an allegation referred to in that subsection to the inspector general of the agency which is the subject of the allegation. The inspector general shall investigate and resolve the allegation pursuant to procedures prescribed by the head of the agency.

"(c) In prescribing procedures for the investigation and resolution of allegations under subsection (b), the head of an agency shall ensure, to the maximum extent practicable, that the procedures are similar to the procedures for investigating and resolving complaints utilized by the Secretary under section 4321(d) of this title.

"(d) This section may not be construed—

"(1) as prohibiting an employee of an agency referred to in subsection (a) from seeking information from the Secretary regarding assistance in seeking reemployment from the agency under this chapter, alternative employment in the Federal Government under this chapter, or information relating to the rights and obligations of employee and Federal agencies under this chapter; or

"(2) as prohibiting such an agency from voluntarily cooperating with or seeking assistance in or of clarification from the Secretary or the Director of the Office of Personnel Management of any matter arising under this chapter.

"§4325. Conduct of investigation; subpoenas

"(a) In carrying out any investigation under this chapter, the Secretary's duly authorized representatives shall, at all reasonable times, have reasonable access to, for purposes of examination, and the right to copy and receive, any documents of any person or employer that the Secretary considers relevant to the investigation.

"(b) In carrying out any investigation under this chapter, the Secretary may require by subpoena the attendance and testimony of witnesses and the production of documents relating to any matter under investigation. In case of disobedience of the subpoena or contumacy and on request of the Secretary, the Attorney General may apply to any district court of the United States in whose jurisdiction such disobedience or contumacy occurs for an order enforcing the subpoena.

"(c) Upon application, the district courts of the United States shall have jurisdiction to issue writs commanding any person or employer to comply with the subpoena of the Secretary or to comply with any order of the Secretary made pursuant to a lawful investigation under this chapter and district courts shall have jurisdiction to punish failure to obey a subpoena or other lawful order of the Secretary as a contempt of court.

"(d) Subsections (b) and (c) shall not apply to the legislative branch or the judicial branch of the United States.

"SUBCHAPTER IV—MISCELLANEOUS

"§4331. Regulations

"(a) The Secretary (in consultation with the Secretary of Defense) may prescribe regulations

implementing the provisions of this chapter with respect to States and local governments (as employers) and private employers.

"(b)(1) The Director of the Office of Personnel Management (in consultation with the Secretary and the Secretary of Defense) may prescribe regulations implementing the provisions of this chapter with regard to the application of this chapter to Federal executive agencies (other than the agencies referred to in paragraph (2)) as employers. Such regulations shall be consistent with the regulations pertaining to the States as employers and private employers.

"(2) The following entities may prescribe regulations to carry out the activities of such entities under this chapter:

"(A) The Merit Systems Protection Board.

"(B) The Office of Special Counsel.

"(C) The agencies referred to in section 2303(a)(2)(C)(ii) of title 5.

"§ 4332. Outreach

"The Secretary, the Secretary of Defense, and the Secretary of Veterans Affairs shall take such actions as such Secretaries determine are appropriate to inform persons entitled to rights and benefits under this chapter and employers of the rights, benefits, and obligations of such persons and employers under this chapter.".

(b) TABLE OF CHAPTERS.—The tables of chapters at the beginning of title 38, United States Code, and the beginning of part III of such title are each amended by striking out the item relating to chapter 43 and inserting in lieu thereof the following:

"43. Employment and reemployment rights of members of the uniformed services ..... 4301".

(c) REPORT RELATING TO IMPLEMENTATION OF REEMPLOYMENT RIGHTS PROVISIONS.—Not later than one year after the date of the enactment of this Act, the Secretary of Labor, the Attorney General of the United States, and the Special Counsel referred to in section 4323(a)(1) of title 38, United States Code (as added by subsection (a)), shall each submit a report to the Congress relating to the implementation of chapter 43 of such title (as added by such subsection).

SEC. 3. EXEMPTION FROM MINIMUM SERVICE REQUIREMENTS.

Section 5303A(b)(3) of title 38, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (E);

(2) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new subparagraph:

"(G) to an entitlement to rights and benefits under chapter 43 of this title.".

SEC. 4. REPEAL OF TITLE 5 PROVISIONS RELATING TO REEMPLOYMENT RIGHTS OF RESERVISTS.

(a) REPEAL.—Subchapter II of chapter 35 of title 5, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking out the items relating to subchapter II and section 3551.

SEC. 5. REVISION OF FEDERAL CIVIL SERVICE RETIREMENT BENEFIT PROGRAM FOR RESERVISTS.

(a) CREDITABLE MILITARY SERVICE UNDER CSRS.—Section 8331(13) of title 5, United States Code, is amended in the flush matter by inserting "or full-time National Guard duty (as such term is defined in section 101(d) of title 10) if such service interrupts creditable civilian service under this subchapter and is followed by reemployment in accordance with chapter 43 of title 38 that occurs on or after August 1, 1990" before the semicolon.

(b) PAY DEDUCTIONS FOR MILITARY SERVICE UNDER CSRS.—Section 8334(j)(1) of such title is amended—

(1) by striking out "Each employee" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), each employee"; and

(2) by adding at the end the following:

"(B) In any case where military service interrupts creditable civilian service under this subchapter and reemployment pursuant to chapter 43 of title 38 occurs on or after August 1, 1990, the deposit payable under this paragraph may not exceed the amount that would have been deducted and withheld under subsection (a)(1) from basic pay during civilian service if the employee had not performed the period of military service.".

(c) CREDITABLE MILITARY SERVICE UNDER FERS.—Section 8401(31) of such title is amended in the flush matter by inserting "or full-time National Guard duty (as such term is defined in section 101(d) of title 10) if such service interrupts creditable civilian service under this subchapter and is followed by reemployment in accordance with chapter 43 of title 38 that occurs on or after August 1, 1990" before the semicolon.

(d) PAY DEDUCTIONS FOR MILITARY SERVICE UNDER FERS.—Section 8422(e)(1) of such title is amended—

(1) by striking out "Each employee" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), each employee"; and

(2) by adding at the end the following:

"(B) In any case where military service interrupts creditable civilian service under this subchapter and reemployment pursuant to chapter 43 of title 38 occurs on or after August 1, 1990, the deposit payable under this paragraph may not exceed the amount that would have been deducted and withheld under subsection (a)(1) from basic pay during civilian service if the employee had not performed the period of military service.".

(e) TECHNICAL AMENDMENTS.—Title 5, United States Code, is amended as follows:

(1) In section 8401(11), by striking out "1954" in the flush matter above clause (i) and inserting in lieu thereof "1986".

(2) In section 8422(a)(2)(A)(ii), by striking out "1954" and inserting in lieu thereof "1986".

(3) In section 8432(d), by striking out "1954" in the first sentence and inserting in lieu thereof "1986".

(4) In section 8433(i)(4), by striking out "1954" and inserting in lieu thereof "1986".

(5) In section 8440—

(A) by striking out "1954" in subsection (a) and inserting in lieu thereof "1986"; and

(B) by striking out "1954" in subsection (c) and inserting in lieu thereof "1986".

SEC. 6. THRIFT SAVINGS PLAN.

(a) IN GENERAL.—(1) Title 5, United States Code, is amended by inserting after section 8432a the following:

"§8432b. Contributions of persons who perform military service

"(a) This section applies to any employee who—

"(1) separates or enters leave-without-pay status in order to perform military service; and

"(2) is subsequently restored to or reemployed in a position which is subject to this chapter, pursuant to chapter 43 of title 38.

"(b)(1) Each employee to whom this section applies may contribute to the Thrift Savings Fund, in accordance with this subsection, an amount not to exceed the amount described in paragraph (2).

"(2) The maximum amount which an employee may contribute under this subsection is equal to—

"(A) the contributions under section 8432(a) which would have been made, over the period beginning on date of separation or commencement of leave-without-pay status (as applicable) and ending on the day before the date of restoration or reemployment (as applicable); reduced by

"(B) any contributions under section 8432(a) actually made by such employee over the period described in subparagraph (A).

"(3) Contributions under this subsection—

"(A) shall be made at the same time and in the same manner as would any contributions under section 8432(a);

"(B) shall be made over the period of time specified by the employee under paragraph (4)(B); and

"(C) shall be in addition to any contributions then actually being made under section 8432(a).

"(4)(A) The Executive Director shall prescribe the time, form, and manner in which an employee may specify—

"(i) the total amount such employee wishes to contribute under this subsection with respect to any particular period referred to in paragraph (2)(B); and

"(ii) the period of time over which the employee wishes to make contributions under this subsection.

"(B) The employing agency may place a maximum limit on the period of time referred to in subparagraph (A)(ii), which cannot be shorter than two times the period referred to in paragraph (2)(B) and not longer than four times such period.

"(c) If an employee makes contributions under subsection (b), the employing agency shall make contributions to the Thrift Savings Fund on such employee's behalf—

"(1) in the same manner as would be required under section 8432(c)(2) if the employee contributions were being made under section 8432(a); and

"(2) disregarding any contributions then actually being made under section 8432(a) and any agency contributions relating thereto.

"(d) An employee to whom this section applies is entitled to have contributed to the Thrift Savings Fund on such employee's behalf an amount equal to—

"(1) 1 percent of such employee's basic pay (as determined under subsection (e)) for the period referred to in subsection (b)(2)(B); reduced by

"(2) any contributions actually made on such employee's behalf under section 8432(c)(1) with respect to the period referred to in subsection (b)(2)(B).

"(e) For purposes of any computation under this section, an employee shall, with respect to the period referred to in subsection (b)(2)(B), be considered to have been paid at the rate which would have been payable over such period had such employee remained continuously employed in the position which such employee last held before separating or entering leave-without-pay status to perform military service.

"(f) Amounts paid under subsection (c) or (d) shall be paid—

"(1) by the agency to which the employee is restored or in which such employee is reemployed;

"(2) from the same source as would be the case under section 8432(e) with respect to sums required under section 8432(c); and

"(3) within the time prescribed by the Executive Director.

"(g)(1) For purposes of section 8432(g), in the case of an employee to whom this section applies—

"(A) a separation from civilian service in order to perform the military service on which the employee's restoration or reemployment rights are based shall be disregarded; and

"(B) such employee shall be credited with a period of civilian service equal to the period referred to in subsection (b)(2)(B).

"(2)(A) An employee to whom this section applies may elect, for purposes of section 8433(d), or paragraph (1) or (2) of section 8433(h), as the case may be, to have such employee's separation (described in subsection (a)(1)) treated as if it had never occurred.

"(B) An election under this paragraph shall be made within such period of time after restoration or reemployment (as the case may be) and otherwise in such manner as the Executive Director prescribes.

"(h) The Executive Director shall prescribe regulations to carry out this section.".

(2) The table of sections at the beginning of chapter 84 of title 5, United States Code, is amended by inserting after the item relating to section 8432a the following:

"8432b. Contributions of persons who perform military service.".

(b) PRESERVATION OF CERTAIN RIGHTS.—(1) Section 8433(d) of title 5, United States Code, is amended by striking "subsection (e)." and inserting "subsection (e), unless an election under section 8432b(g)(2) is made to treat such separation for purposes of this subsection as if it had never occurred.".

(2) Paragraphs (1) and (2) of section 8433(h) are each amended by striking the period at the end and inserting ", or unless an election under section 8432b(g)(2) is made to treat such separation for purposes of this paragraph as if it had never occurred.".

(c) ELECTION TO RESUME REGULAR CONTRIBUTIONS UPON RESTORATION OR REEMPLOYMENT.—Section 8432 of title 5, United States Code, is amended by adding at the end the following:

"(i)(1) This subsection applies to any employee—

"(A) to whom section 8432b applies; and

"(B) who, during the period of such employee's absence from civilian service (as referred to in section 8432b(b)(2)(B))—

"(i) is eligible to make an election described in subsection (b)(1); or

"(ii) would be so eligible but for having either elected to terminate individual contributions to the Thrift Savings Fund within 2 months before commencing military service or separated in order to perform military service.

"(2) The Executive Director shall prescribe regulations to ensure that any employee to whom this subsection applies shall, within a reasonable time after being restored or reemployed (in the manner described in section 8432b(a)(2)), be afforded the opportunity to make, for purposes of this section, any election which would be allowable during a period described in subsection (b)(1)(A).".

(d) APPLICABILITY TO EMPLOYEES UNDER CSRS.—Section 8351(b) of title 5, United States Code, is amended by adding at the end the following:

"(11) In applying section 8432b to an employee contributing to the Thrift Savings Fund after being restored to or reemployed in a position subject to this subchapter, pursuant to chapter 43 of title 38—

"(A) any reference in such section to contributions under section 8432(a) shall be considered a reference to employee contributions under this section;

"(B) the contribution rate under section 8432b(b)(2)(A) shall be the maximum percentage allowable under subsection (b)(2) of this section; and

"(C) subsections (c) and (d) of section 8432b shall be disregarded.".

(e) EFFECTIVE DATE; APPLICABILITY.—This section and the amendments made by this section—

(1) shall take effect on the date of enactment of this Act; and

(2) shall apply to any employee whose release from military service, discharge from hospitalization, or other similar event making the individual eligible to seek restoration or reemployment under chapter 43 of title 38, United States Code (as added by section 2(a)), occurs on or after August 1, 1990.

(f) RULES FOR APPLYING AMENDMENTS TO EMPLOYEES RESTORED OR REEMPLOYED BEFORE EFFECTIVE DATE.—In the case of any employee (described in subsection (e)(2)) who is restored or reemployed in a position of employment (in the circumstances described in section 8432b(a) of title 5, United States Code, as amended by this section) before the date of enactment of this Act, the amendments made by this section shall apply to such employee, in accordance with their terms, subject to the following:

(1) The employee shall be deemed not to have been reemployed or restored until—

(A) the date of enactment of this Act, or

(B) the first day following such employee's reemployment or restoration on which such employee is or was eligible to make an election relating to contributions to the Thrift Savings Fund,

whichever occurs or occurred first.

(2) If the employee changed agencies during the period between date of actual reemployment or restoration and the date of enactment of this Act, the employing agency as of such date of enactment shall be considered the reemploying or restoring agency.

(3)(A) For purposes of any computation under section 8432b of such title, pay shall be determined in accordance with subsection (e) of such section, except that, with respect to the period described in subparagraph (B), actual pay attributable to such period shall be used.

(B) The period described in this subparagraph is the period beginning on the first day of the first applicable pay period beginning on or after the date of the employee's actual reemployment or restoration and ending on the day before the date determined under paragraph (1).

SEC. 7. CONFORMING AMENDMENTS.

(a) TITLE 5.—Section 1204(a)(1) of title 5, United States Code, is amended by striking out "section 4323" and inserting in lieu thereof "chapter 43".

(b) TITLE 10.—Section 706(c)(1) of title 10, United States Code, is amended by striking out "section 4321" and inserting in lieu thereof "chapter 43".

SEC. 8. TECHNICAL AMENDMENT.

(a) TECHNICAL AMENDMENT.—Section 9(d) of Public Law 102-16 (105 Stat. 55) is amended by striking out "Act" the first place it appears and inserting in lieu thereof "section".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in Public Law 102-16 to which such amendment relates.

SEC. 9. TRANSITION RULES AND EFFECTIVE DATES.

(a) REEMPLOYMENT.—(1) Except as otherwise provided in this Act, the amendments made by this Act shall be effective with respect to reemployments initiated on or after the first day after the 60-day period beginning on the date of enactment of this Act.

(2) The provisions of chapter 43 of title 38, United States Code, in effect on the day before such date of enactment, shall continue to apply to reemployments initiated before the end of such 60-day period.

(3) In determining the number of years of service that may not be exceeded in an employee-employer relationship with respect to which a person seeks reemployment under chapter 43 of title 38, United States Code, as in effect before or after the date of enactment of this Act, there shall be included all years of service without regard to whether the periods of service occurred before or after such date of enactment unless the period of service is exempted by the chapter 43 that is applicable, as provided in paragraphs (1) and (2), to the reemployment concerned.

(4) A person who initiates reemployment under chapter 43 of title 38, United States Code, during or after the 60-day period beginning on the date of enactment of this Act and whose reemployment is made in connection with a period of service in the uniform services that was initiated before the end of such period shall be deemed to have satisfied the notification requirement of section 4312(a)(1) of title 38, United States Code, as provided in the amendments made by this Act, if the person complied with any applicable notice requirement under chapter 43, United States Code, as in effect on the day before the date of enactment of this Act.

(b) DISCRIMINATION.—The provisions of section 4311 of title 38, United States Code, as provided in the amendments made by this Act, and the provisions of subchapter III of chapter 43 of such title, as provided in the amendments made by this Act, that are necessary for the implementation of such section 4311 shall become effective on the date of enactment of this Act.

(c) INSURANCE.—(1) Except as provided in paragraph (2), the provisions of section 4316(c) of title 38, United States Code, as provided in the amendments made by this Act, concerning insurance coverage shall become effective on the date of enactment of this Act.

(2) A person on active duty on the date of enactment of this Act, or a family member or personal representative of such person, may, after the date of enactment of this Act, elect to reinstate or continue insurance coverage as provided in such section 4316. If such an election is made, insurance coverage shall remain in effect for the remaining portion of the 18-month period that began on the date of such person's separation from civilian employment or the period of the person's service in the uniformed service, whichever is the period of lesser duration.

(d) DISABILITY.—(1) Section 4313(a)(3) of chapter 43 of title 38, United States Code, as provided in the amendments made by this Act, shall apply to reemployments initiated on or after August 1, 1990.

(2) Effective as of August 1, 1990, section 4307 of title 38, United States Code (as in effect on the date of enactment of this Act), is repealed, and the table of sections at the beginning of chapter 43 of such title (as in effect on the date of enactment of this Act) is amended by striking out the item relating to section 4307.

(e) INVESTIGATIONS AND SUBPOENAS.—The provisions of section 4325 of title 38, United States Code, as provided in the amendments made by this Act, shall become effective on the date of the enactment of this Act and apply to any matter pending with the Secretary of Labor under section 4305 of title 38, United States Code, as of that date.

(f) PREVIOUS ACTIONS.—Except as otherwise provided, the amendments made by this Act do not affect reemployments that were initiated, rights, benefits, and duties that matured, penalties that were incurred, and proceedings that begin before the end of the 60-day period referred to in subsection (a).

(g) DEFINITION.—For the purposes of this section, the term "service in the uniformed services" shall have the meaning given such term in section 4303(13) of title 38, United States Code, as provided in the amendments made by this Act.

SEC. 10. INCREASE IN AMOUNT OF LOAN GUARANTY FOR LOANS FOR THE PURCHASE OR CONSTRUCTION OF HOMES.

Subparagraphs (A)(i)(IV) and (B) of section 3703(a)(1) of title 38, United States Code, are each amended by striking out "$46,000" and inserting in lieu thereof "$50,750".

ORDERS FOR TUESDAY, NOVEMBER 9, 1993

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 9 a.m., Tuesday, November 9; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that immediately following the announcement of the Chair, the Senate resume consideration of the motion to invoke cloture on the Interior Appropriations conference report, with 1 hour for debate, the time equally divided and controlled between Senators REID and NICKLES, or their designees; that once the hour has been used on the motion to invoke cloture, the Senate then resume consideration of S. 1607, the crime bill; that on Tuesday, the Senate stand in recess from 12:30 p.m. until 2:15 p.m., in order to accommodate the respective party conferences; that at 2:15 p.m., the Senate, without intervening action or debate, vote on a motion to invoke cloture on the Interior Appropriations conference report, to be followed, without intervening action or debate, by a vote on, or in relation to, the DOLE amendment No. 1140; that upon disposition of the Dole amendment, and without intervening action or debate, the Senate vote on, or in relation to, the Lieberman amendment.

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

RECESS UNTIL TUESDAY, NOVEMBER 9, 1993, AT 9 A.M.

Mr. BIDEN. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 9:58 p.m., recessed until Tuesday, November 9, 1993, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate November 8, 1993:

DEPARTMENT OF ENERGY

CHRISTINE ERVIN, OF OREGON, TO BE AN ASSISTANT SECRETARY OF ENERGY (ENERGY EFFICIENCY AND RENEWABLE ENERGY), VICE J. MICHAEL DAVIS, RESIGNED.

COMMODITY FUTURES TRADING COMMISSION

BARBARA PEDERSEN HOLUM, OF MARYLAND, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE TERM EXPIRING APRIL 13, 1997, VICE FOWLER C. WEST, RESIGNED.

DEPARTMENT OF AGRICULTURE

WALLY B. BEYER, OF NORTH DAKOTA, TO BE ADMINISTRATOR OF THE RURAL ELECTRIFICATION ADMINISTRATION FOR A TERM OF TEN YEARS, VICE JAMES B. HUFF, SR.

DEPARTMENT OF STATE

STUART GEORGE MOLDAW, OF CALIFORNIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FORTY-EIGHTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 8, 1993:

DEPARTMENT OF COMMERCE

JEFFREY E. GARTEN, OF NEW YORK, TO BE UNDER SECRETARY OF COMMERCE FOR INTERNATIONAL TRADE.

FEDERAL LABOR RELATIONS AUTHORITY

JOSEPH SWERDZEWSKI, OF COLORADO, TO BE GENERAL COUNSEL FOR THE FEDERAL LABOR RELATIONS AUTHORITY FOR A TERM OF FIVE YEARS.

DEPARTMENT OF LABOR

JOSEPH A. DEAR, OF WASHINGTON, TO BE AN ASSISTANT SECRETARY OF LABOR.

DEPARTMENT OF VETERANS AFFAIRS

EUGENE A. BRICKHOUSE, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (HUMAN RESOURCES AND ADMINISTRATION).

KATHY ELENA JURADO, OF FLORIDA, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (PUBLIC AND INTERGOVERNMENTAL AFFAIRS).

NATIONAL MEDIATION BOARD

ERNEST W. DUBESTER, OF NEW JERSEY, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR A TERM EXPIRING JULY 1, 1995.

ENVIRONMENTAL PROTECTION AGENCY

JONATHAN Z. CANNON, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

MARY DOLORES NICHOLS, OF CALIFORNIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

DIANE B. FRANKEL, OF CALIFORNIA, TO BE DIRECTOR OF THE INSTITUTE OF MUSEUM SERVICES.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. GARY H. MEARS [redacted] UNITED STATES AIR FORCE

IN THE ARMY

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. JIMMY D. ROSS [redacted] UNITED STATES ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. JOHNNIE E. WILSON, [redacted] UNITED STATES ARMY

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624:

To be permanent brigadier general

COL. EDWIN P. SMITH [redacted]
COL. NEIL N. SNYDER [redacted]
COL. MARK R. HAMILTON [redacted]
COL. EMMITT E. GIBSON [redacted]
COL. ROBERT D. SHADLEY [redacted]
COL. CHARLES R. VIALE [redacted]
COL. GEORGE F. CLOSE, JR. [redacted]
COL. DALE R. NELSON [redacted]
COL. JOSEPH E. ODEH [redacted]
COL. MICHAEL W. ACKERMAN [redacted]
COL. BOYD E. KING, JR. [redacted]
COL. JOHN M. LE MOYNE [redacted]
COL. MICHAEL L. DODSON [redacted]
COL. JOHN J. RYNESKA [redacted]
COL. ROY E. BEAUCHAMP [redacted]
COL. RICHARD A. BLACK [redacted]
COL. JOHN B. SYLVESTER [redacted]
COL. JAMES P. O'NEAL [redacted]
COL. THOMAS W. GARRETT [redacted]
COL. JOHN D. THOMAS, JR. [redacted]
COL. JAMES E. SHANE, JR. [redacted]
COL. JOHN G. MEYER, JR. [redacted]
COL. JOSEPH M. COSUMANO, JR. [redacted]
COL. ROBERT B. FLOWERS [redacted]
COL. ROBERT R. IVANY [redacted]
COL. MICHAEL T. BYRNES [redacted]
COL. DAVID S. WEISMAN [redacted]
COL. RALPH G. WOOTEN [redacted]
COL. JULIAN H. BURNS, JR. [redacted]
COL. ROBERT T. CLARK [redacted]
COL. CHRISTOPHER C. SHOEMAKER [redacted]
COL. KEVIN P. BYRNES [redacted]
COL. JOHN M. MCDUFFIE [redacted]
COL. GREGORY A. ROUNTREE [redacted]
COL. LARRY J. LUST [redacted]
COL. PETER C. FRANKLIN [redacted]
COL. DAVID L GRANGE [redacted]
COL. KENNETH R. BOWRA [redacted]

THE FOLLOWING U.S. ARMY RESERVE OFFICERS FOR PROMOTION TO THE GRADES INDICATED IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF SECTIONS 593(A), 3371 AND 3384, TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. DONALD F. CAMPBELL [redacted]
BRIG. GEN. PETER W. CLEGG [redacted]
BRIG. GEN. LINDSAY M. FREEMAN [redacted]
BRIG. GEN. LEONARD L. HOCH [redacted]
BRIG. GEN. THOMAS P. JONES [redacted]
BRIG. GEN. HOWARD T. MOONEY [redacted]
BRIG. GEN. THOMAS J. PLEWES [redacted]
BRIG. GEN. RICHARD F. REEDER [redacted]
BRIG. GEN. RICHARD E. STORAT [redacted]
BRIG. GEN. FRANCIS D. TERRELL [redacted]
BRIG. GEN. JOHN M. VEST [redacted]
BRIG. GEN. ROBERT H. G. WAUDBY [redacted]

To be brigadier general

COL. MICHAEL E. DUNLAVEY [redacted]
COL. JAMES L. BAUERLE [redacted]
COL. MELVIN R. JOHNSON [redacted]
COL. BRUCE B. BINGHAM [redacted]
COL. MICHAEL R. MAYO [redacted]
COL. ROBERT J. WINZINGER [redacted]
COL. JOHN G. KULHAVI [redacted]
COL. RODNEY D. RUDDOCK [redacted]
COL. ROBERT L. LENNON [redacted]
COL. JOHN J. GREEN, JR. [redacted]
COL. JAMES C. LARSON [redacted]
COL. CLIFFORD L. MASSENGALE [redacted]
COL. ROBERT A. LEE [redacted]
COL. NORMAN B. BURDETT [redacted]

IN THE NAVY

THE FOLLOWING NAMED CAPTAINS OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF REAR ADMIRAL (LOWER HALF) IN THE LINE AND STAFF CORPS, AS INDICATED, PURSUANT TO THE PROVISION OF TITLE 10, UNITED STATES CODE, SECTION 5912:

Unrestricted line officer to be rear admiral (lower half)

CAPT. JAMES WAYNE EASTWOOD [redacted] U.S. NAVAL RESERVE
CAPT. TIMOTHY O'NEIL FANNING, JR. [redacted] U.S. NAVAL RESERVE
CAPT. JOHN EDWIN KERR [redacted] U.S. NAVAL RESERVE
CAPT. JOHN BENJAMIN TOTUSHEK, [redacted] U.S. NAVAL RESERVE

SPECIAL DUTY OFFICER (CRYPTOLOGY)

To be rear admiral (lower half)

CAPT. ROBERT HULBURT WEIDMAN, JR., [redacted] U.S. NAVAL RESERVE

MEDICAL CORPS OFFICER

To be read admiral (lower half)

CAPT. MACEA EUGENE FUSSELL, [redacted] U.S. NAVAL RESERVE

SUPPLY CORPS OFFICER

To be rear admiral (lower half)

CAPT. BRIAN NELSON MCCARTHY [redacted] U.S. NAVAL RESERVE

CHAPLAIN CORPS OFFICER

To be rear admiral (lower half)

CAPT. WILLIAM ASHLEY WILL, JR. [redacted] U.S. NAVAL RESERVE

THE FOLLOWING NAMED REAR ADMIRALS (LOWER HALF) OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF REAR ADMIRAL IN THE LINE, AS INDICATED, PURSUANT TO THE PROVISION OF TITLE 10, UNITED STATES CODE, SECTION 5912:

Unrestricted line officer to be rear admiral

REAR ADM. (LH) GRANT THOMAS HOLLETT, JR. [redacted] U.S. NAVAL RESERVE
REAR ADM. (LH) TIM MCCALL JENKIN [redacted] U.S. NAVAL RESERVE
REAR ADM. (LH) JOHN JACOB MUMAW [redacted] U.S. NAVAL RESERVE

Unrestricted line officer (training and administration of reserve) to be rear admiral

REAR ADM. (LH) JAMES DUANE OLSON, II, [redacted] U.S. NAVAL RESERVE

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be vice admiral

VICE ADM. JERRY O. TUTTLE, U.S. NAVY [redacted]

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBLY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be admiral

VICE ADM. WILLIAM A. OWENS XXX-XX-X... U.S. NAVY.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. THOMAS J. LOPEZ XXX-XX-X... U.S. NAVY.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING RICHARD A. ACETO, AND ENDING RAYMOND D WILKINS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 14, 1993

AIR FORCE NOMINATION OF ROBERT G. WORTHINGTON, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF OCTOBER 19, 1993

AIR FORCE NOMINATIONS BEGINNING SAMAR K BHOWMICK, AND ENDING ERNEST G WEEKS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF OCTOBER 19, 1993

AIR FORCE NOMINATIONS BEGINNING KENNETH F. ABEL, AND ENDING SHEILA J ZRIMM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF OCTOBER 19, 1993

IN THE ARMY

ARMY NOMINATIONS BEGINNING ROBERT E ABODEELY, AND ENDING JULIA B WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF OCTOBER 4, 1993

ARMY NOMINATIONS BEGINNING THOMAS N. BORDNER, AND ENDING LYNNETTE D. KENNISON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF OCTOBER 19, 1993

ARMY NOMINATIONS BEGINNING PATRICIA A AFFE, AND ENDING ALAN H BRIGHTMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF OCTOBER 19, 1993

IN THE MARINE CORPS

MARINE CORPS NOMINATIONS BEGINNING JEFFREY A BAUMERT, AND ENDING JEFFREY A RIPA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF OCTOBER 19, 1993

MARINE CORPS NOMINATIONS BEGINNING STEPHEN S ADAMS, AND ENDING CRAIG W WOOD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF OCTOBER 19, 1993

MARINE CORPS NOMINATIONS BEGINNING JOSEPH A ALEXANDER, JR, AND ENDING WADE YOFFEE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF OCTOBER 19, 1993

MARINE CORPS NOMINATIONS BEGINNING JAMES C ANDRUS, AND ENDING FLOYD H WINN, JR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF OCTOBER 19, 1993

MARINE CORPS NOMINATIONS BEGINNING TIMOTHY C ABE, AND ENDING MARK G ZIMMERMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF OCTOBER 19, 1993

IN THE NAVY

NAVY NOMINATIONS BEGINNING JON CHRISTIAN ABELES, AND ENDING JOHN STEWART DAUGHENBAUGH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF OCTOBER 19, 1993

NAVY NOMINATIONS BEGINNING RONALD DAVID ABATE, AND ENDING REUBEN TERUO TSUJIMURA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF OCTOBER 19, 1993

NAVY NOMINATIONS BEGINNING LEE THOMAS BAKER, AND ENDING THOMAS JOSEPH YURIK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF OCTOBER 19, 1993

NAVY NOMINATIONS BEGINNING CHARLES L ALEY, III, AND ENDING DOREEN E TATE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF OCTOBER 19, 1993

EXTENSIONS OF REMARKS

SCHOOL CHOICE IN THE YEAR 2000

HON. NEWT GINGRICH
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. GINGRICH. Mr. Speaker, I would like to encourage all of our colleagues to read the following article on the future of school choice by former Secretary of Education Lamar Alexander.

Like most Americans, I believe that we must fix the learning system in America. We must reform education so that every child in the United States has the opportunity to learn, and we must build a culture of lifelong learning so that we can use the knowledge we have and successfully compete in the world.

We cannot continue to trap children in school systems in which the resources are siphoned off by bureaucrats and union employees and never actually reach the students. At least 35 States now offer parents at least some measure of choice in education, and academic choice options are expanding. Five States have implemented comprehensive open enrollment plans that allow parents to select their children's schools, and several others have announced new choice programs. As former Secretary Alexander predicts, school choice will be the way of the future because Americans will have figured out that schools which provide a quality education will succeed in attracting students to study there and significantly help low- and middle-income have access to good schools.

[Reprinted from the Phi Delta Kappan, June 1993]

SCHOOL CHOICE IN THE YEAR 2000

(By Lamar Alexander)

I have this prediction: by the time our fifth-graders, the class of 2000, are seniors, school choice will not be an issue. About the only people discussing it will be a few Ph.D. candidates who will have chosen to investigate that strange era when local government monopolies had control of the most valuable and important enterprises in America—our schools—and fought furiously to keep the doors to many of the best schools closed to middle- and low-income children. The era will be especially difficult to understand because it will have flourished at the same time that the ideas of freedom, choice, and opportunity were sweeping the rest of the world. In hindsight, it will look like we Americans were determined, in education at least, to be the last to practice our own best ideas.

School choice will not be an issue in the year 2000 because it will then be commonplace. Middle- and low-income parents will have demanded it, and the public at large will have remembered that consumer power is a tried and true American way to encourage innovation and improvement. Still, for most people today, it is hard to imagine that the idea that parents—not the government—should decide what is best for children will become commonplace so quickly. There is no more divisive issue in American education today than the idea of school choice, especially when it is extended to include schools or academic programs that may have been invented and operated by someone other than the local school board.

Trying to encourage our education system to give all families the same options that, say, my family has or President Clinton's family has when it comes to choosing schools was only one of a number of proposals that President Bush and I supported when I was his secretary of education. Some of these proposals were very different: setting new national standards in basic subjects, devising a national examination system geared to those standards, creating thousands of "break-the-mold schools" from scratch, removing most federal regulations that handcuff classroom teachers, and inviting the genius of America's huge, vibrant, creative private sector to help create the best schools in the world for our children.

But these proposals—taken either singly or all together—did not stir anything like the intense reactions evoked by the idea of giving all parents the opportunity to choose among all schools. When I appeared before newspaper editorial boards with the intention of discussing President Bush's entire America 2000 education program, I often found much of my time consumed by arguments with editors who had plenty of choices for their own children but were worried about giving those same choices to parents with less money. Albert Shanker, president of the American Federation of Teachers, whom I had always found to be reasonably receptive to different ideas, became positively red-faced and grumpy over our persistent advocacy of school choice. He described it as a "dagger to the heart" and helped to lead an enormous political effort to support Bill Clinton and to end the talk of "private school choice."

Many educators told me that they greatly feared that school choice, instead of helping to create better schools, would create worse ones. And when, having been interrupted in my work by the voters, I climbed into my Ford Explorer on January 20 and drove back home to Tennessee, I had among my papers a clipping quoting one lobbyist as saying, with obvious relief, "Well, that is the last we'll hear of 'break-the-mold' schools and private school choice."

Of course, the lobbyist was wrong. When I arrived in Maryville, Tennessee—the small town at the edge of the Great Smoky Mountains where I grew up, where both my parents taught, and where my father was school board chairman—there in the Maryville-Alcoa Daily Times was a story about how the school board was turning Fort Craig Elementary into a "school of choice." Fort Craig would have an extended-day, year-round schedule for the children of working parents and a different curriculum. So, of course, no child would be assigned to Fort Craig. The school would do things the way we do most other things in America—Fort Craig would attract students. And teachers, too. The school board had decided that it might as well have teachers who chose to teach at Fort Craig in addition to children whose parents thought Fort Craig would be the best school for them.

That was far from all. The Daily Times also reported that Maryville was building a new middle school. There was to be a town discussion—everyone's opinions were being invited—so that Maryville would not just end up with the same kind of new school that a "cruise-control" mentality might produce. Maryville was determined to "break the mold," to start from scratch to create a school that would fit the needs of children growing up today in my hometown.

All of this reminded me of Cousin Hazel, our self-appointed family historian. A few years ago at our family reunion, Hazel collected $25 from each of us to put together a family history, and eventually she produced one. Somewhere toward the middle, the history describes, in approximately the following words, the school my Grandfather Alexander attended in Cloyd's Creek: "First, they created the church, and then the school. And the school was open during the summer for about three months, and it taught children reading and writing and arithmetic to the fourth grade."

When my father and his brothers and sisters came along, my grandfather sold his farm near Cloyd's Creek and moved into Maryville—so that his children could attend a better school. My father went to those same Maryville schools that I am describing, the ones I also attended—schools of which we were and are proud and that regularly help to produce the highest student achievement scores in the state at a cost of less than $4,000 per student per year.

But today the community of Maryville sees that, even in our small town, the world is changing dramatically. Instead of there being only an Alcoa aluminum plant that hires most of those who do not farm, there is also a Nippondenso plant making auto parts, and the aluminum plant has gotten much smaller. At both plants today the employees are expected to understand algebra, estimation, statistics, and spatial relationships; to speak and communicate well in English; and to work in teams in a way that was not expected of us when we graduated years ago.

And anyone who needs a further reminder of how the world around my hometown is changing can look just down the road to Sweetwater, home of Tennessee Megii Gakuin—the first Japanese high school in the United States, where students attend classes about 80 more days a year than they do at my old high school and consequently learn in three years what the Maryville High School students learn in four.

One reason that Fort Craig Elementary is changing its hours and curriculum and that the new "break-the-mold" middle school is being planned is that, even in Maryville, children are growing up differently today. And an 8 a.m. to 3 p.m. school schedule for nine months of every year, featuring a teacher lecturing from a textbook, doesn't fit the way a child grows up today. The school, as James Coleman of the University of Chicago says, "is organized to help the family do some things the family doesn't do as well."

Also in the newspaper on the day I returned to Tennessee was a story about the

progress of the Edison Project, headquartered at Whittle Communications in nearby Knoxville. The article told of the excitement within the Edison team of teachers and others, who are asking of education the question Peter Drucker has insisted that American business ask of itself, "If you weren't already doing it, would you start?" What the Edison group—headed by Benno Schmidt, former president of Yale University—is contemplating is every bit as exciting and promising and revolutionary as the highly successful start-from-scratch Saturn automobile plant a few miles down the highway in Spring Hill, Tennessee.

Driving on to Nashville, where my family and I now live, I visited with the new mayor, a Democrat fresh from the world of business, who had quite innocently—and I think correctly—asked early in his term, "Why can't we make every school a magnet school?" And the Nashville newspapers carried a piece about Carl Ross of Dodson Elementary School, certainly one of the best principals in the metropolitan Nashville area during the time that I have watched education in Tennessee. Carl had resigned his position to create a private company and is—as I write—negotiating with the school board to manage one or more of the public schools in Nashville as a way of creating the best schools in the world for the children there.

Over the last 15 years, during which time I have been governor, university president, and U.S. secretary of education, I have come to understand better that all education—like all politics—is local. That is why I gather, mostly from what I see happening around me in Tennessee, that opposition to school choice is on its last legs. But I saw the same trends all across America. And I suspect that, if you look carefully around your own community, you will see them too.

I certainly saw these same trends during the 22 months I served as education secretary. Most of my "education" during that time took place outside Washington, D.C. I visited virtually every state—more than 100 communities. I saw a consensus developing that will inevitably create a new definition and form of what we call "public education." This consensus is developing primarily because America is shifting gears—we are understanding that the world has changed not only in the Soviet Union and Eastern Europe or in some other remote place on television, but in our own backyards as well. Small businessmen and businesswomen in the U.S. who have, as a consequence of this change, gone through wrenching restructuring in their private and business lives are asking with some indignation why the government is not willing to undergo the same sort of transformation. And they are particularly questioning the organization of our schools, because schools are so important and because schools are still designed quite literally for the day when my grandfather attended classes three months a year until the fourth grade and then went to work in the fields.

In addition, Americans have seen how rapidly the rest of the world has been seeking to emulate the American way of life. Everywhere it seems that freedom, choice, and opportunity are becoming the principles on which are founded the answers to the most basic human questions. Around the world, nothing is in quite so much disfavor as government monopolies of essential services. Even in Poland, the government is now giving families more choices of all schools, including private schools, as a way of extending opportunity and improving the system of education.

I will never forget the experience my family had in 1987, when, after eight years in the governor's mansion in Tennessee, we moved to Sydney, Australia, to live for six months. We made this move to get our feet back on the ground as a family. Of course, we learned a lot about crocodiles and sharks and beautiful beaches and jungles. But we learned mostly, as any traveler does, about the wonders of our home country—how big America is, how much variety it contains, how creative it is, and how it is still the premier innovator of the world. And especially we learned afresh what freedom, choice, and opportunity can mean in everyday life.

I suppose we learned the most as we traveled home from Australia through China and then Russia. In China, the children began making lists of things they could do at home in America that Chinese children could not do: choose the college they would attend, the profession in which they would work, the kind of car they would drive, the city in which they would live, and the person they would marry.

What do you suppose would happen in America if some law said you had to attend Vanderbilt instead of the University of Tennessee, live in Cincinnati instead of Cleveland, drive a Ford instead of a Chevrolet, take a job as a welder instead of a fireman, or marry this person instead of that? There would be a revolution—that is what would happen. Then how in the world did we ever fall into—and persist in—this rut that says that a single government monopoly in every town will design all the schools, operate all the schools, and tell each of us—unless we have the money to move across town or to go to a private school—just which one of those schools our child must attend? This is certainly not the way America usually operates.

Last year, the Carnegie Foundation for the Advancement of Teaching reported that 28 percent of the parents it surveyed responded positively when they were asked if they would like to send their child to "some other school * * * public or private, inside or outside of your district." This was truly astonishing: 28 percent—conservatively, parents of at least 12 million American families—would like to send their children to some other school. Nine percent said some other public school; 19 percent said some other private school.

What was even more astonishing was the way the authors of the report interpreted this finding. They concluded that, although 28 percent of consumer parents are dissatisfied, these results somehow represented a mandate to keep things the way they are. That is, if 70 percent say everything is okay, why change it for the rest of you? This made me wonder what would have happened if we had sent this same Carnegie team to Europe five years ago. Would its members have reported that the Berlin Wall was a good idea because only 28 percent of east Germans wanted out?

The Berlin Wall analogy may seem harsh, but it is not so far-fetched. America has stumbled—unnecessarily and uncharacteristically—into this system in which well-intentioned local monopolies have given us what monopolies in a rapidly changing world might be expected to give us: schools in a time warp, schools that stymied teachers and too often bore children, schools that leave 28 percent of American parents wishing they could send their children to some other school.

Recently, someone gave me an article from the August 1968 issue of Psychology Today titled "A Proposal for a Poor Children's Bill of Rights." The proposal was to give a federal coupon to perhaps as many as 50 percent of American children, through their parents, to be spent at any school. "By doing so," the authors wrote, "we might both create significant competition among schools serving the poor (and thus improve the schools) and meet in an equitable way the extra costs of teaching the children of the poor." The authors of the article were Theodore Sizer and Phillip Whitten. Sizer, of course, is today one of America's most respected and pioneering educators and chairman of the Coalition of Essential Schools.

The year 1968 was long ago. Lyndon Johnson was President. "Power to the people" was the battle cry. Sizer and Whitten were young faculty members at Harvard when they wrote:

"The idea of such tuition grants is not new. For almost two centuries various proposals for the idea have come from such figures as Adam Smith, Thomas Paine, John Stuart Mill and more recently from Milton Friedman. Its appeal bridges ideological difference. It has never been tried, quite possibly because the need for it has never been so demonstrably critical as now."

The authors quoted Mario Fantini, then of the Ford Foundation, who imagined "a parents' lobby with unprecedented motivation . . . [and with] a tangible grasp on the destiny of their children." Sizer and Whitten commented, "The ability to control their own destinies definitely will instill in poor people a necessary pride and dignity of which they have been cheated." And what about the argument that this scheme might destroy the public schools? Sizer and Whitten answered:

"Those who would argue that our proposal would destroy the public schools raise a false issue. A system of public schools which destroys rather than develops positive human potential now exists. It is not in the public interest. And a system which blames its society while it quietly acquiesces in, and inadvertently perpetuates the very injustices it blames for its inefficiencies, is not in the public interest. If a system cannot fulfill its responsibilities, it does not deserve to survive. But if the public schools serve, they will prosper."

It was precisely this kind of thinking (although we had not then seen the article by Sizer and Whitten) that led the Bush Administration in 1992 to propose annual scholarships of $1,000 in new federal dollars for each child of a middle- or low-income family in a participating state or locality. Families could spend the scholarships at any lawfully operated school—public, private, or religious. Up to $500 of each scholarship could be spent on "other academic programs"—for example, a Saturday program to learn math, or any afternoon program for children with speech disabilities, or a summer or accelerated program in language or the arts.

The President called his program the "GI Bill for Children" because it would begin to do for elementary and secondary students what the federal government had been doing since World War II for college students—and since 1990 for toddlers in day care. The President's proposal was a demonstration program, but it was the largest new program in the federal budget for fiscal year 1993—a much bigger program, for example, than Head Start was in 1965. It would have spent half a billion new dollars each year, enough to provide scholarships for all eligible children (about 60 percent) in 24 cities the size of San Jose, or in 30 cities the size of Little Rock, or in seven the size of Milwaukee.

These federal dollars would have gone directly to parents, so there would have been no church/state question. There were anti-discrimination proposals included in the program relating to race, disability, and gender. And all the new money in the President's "GI Bill for Children" could have gone to public schools—and I believe that at least 70 percent of it would have—as long as parents thought those schools were best for their children.

Our "GI Bill for Children" proposal in 1992 was almost the same as Sizer's "Poor Children's Bill of Rights" proposal in 1968. Sizer did imagine a "federal coupon" a good deal larger than the $1,000 scholarship President Bush proposed, but $1,000 per student is enough to make a difference in any public school and to pay all of the tuition in, for example, almost any Catholic elementary school (and Catholic schools enroll about 55 percent of America's private school children).

It is time for local school boards to think of themselves differently—as overseers of a system that offers families the widest possible range of choices of the best schools, in somewhat the same way that an airline offers travelers a wide range of opportunities. The airline does not insist on inventing or designing or building its airplanes. It does not insist on owning them. It does not even insist on making reservations. The airline conceives of its job as making sure that every traveler who wants to fly has a wide range of attractive choices at a reasonable cost and can get from point A to point B safely and on time.

We should think of a system of public education in much the same way. The managers of that system should see it as their responsibility to ensure (1) that every single child has the broadest possible number of options to enroll, at a reasonable cost, in the best schools and academic programs; (2) that each child can attend school safely; and (3) that each child will leave school having learned what he or she needs to know to live, work, and compete in the world.

Many school boards are already thinking in this way. Dade County (Miami) is putting more elementary schools in hospitals and creating as many as 50 break-the-mold schools as it rebuilds after Hurricane Andrew. Honeywell has a high school in its corporation headquarters in St. Paul. Down the street, there is a kindergarten in a bank. Baltimore has hired a private company to help manage nine public schools. Minnesota school boards have long had "contract schools" that others design and operate. California has just authorized 100 "charter" schools, to be designed by teachers and others and to operate outside the usual regulations. Why not invite museums, corporations, groups of teachers, libraries, and places of business to design and operate schools that are the best in the world and let those schools attract our children? Why employ our most creative people only when we want to create missiles that will find their way down smokestacks?

Watch for California to lead the way as it grapples with enormous challenges to its education system. According to Maureen DiMarco, the governor's secretary of child development and education, 200,000 new children—more than attend all the schools in Detroit—will arrive in California schools every year. Twenty-two percent of the children in California schools don't speak English. Something has to give. The school structures were never designed for such challenges. Drastic changes—and more money—will be required.

California's response this year was to enact legislation to create 100 charter schools, releasing them from state and union rules, and to invite teachers to design new schools that meet the needs of children. California also tried to hold a referendum on vouchers for its existing schools, but the motion did not quite secure the necessary number of valid signatures to get on the ballot. (Now the referendum is slated for consideration in 1994.) What if California combined the demand for different kinds of schools, the demand for school choice, and the demand for new funds into a single movement—chartering 1,000 new schools each year for the next 10 years and establishing a California "GI Bill for Children" that would provide scholarships that parents could use at any California school? A federal "GI Bill for Children" could then supplement California legislation by providing additional dollars for parents of middle- and low-income children.

From Washington, D.C.—where, to the relief of many, I can no longer be found—it may be hard to imagine this picture of America in the year 2000. But from Tennessee, where I am now, it looks fairly clear that Americans will stay very busy for the rest of the decade, working together on what is arguably America's most important enterprise—creating the best schools in the world for our children. And as we do this, we will find that these schools must be so different that we will break the mold and imagine different learning environments that fit families and children the way they are living in the 1990s. When we do this we will attract families to these different schools, not compel then to attend. And surely we will invite the private sector to join in creating such wonderful opportunities.

That is why I am convinced that by the year 2000 today's divisiveness about school choice will be history, only a dissertation topic, and some puzzled graduate student will be asking, "Now, please explain it one more time. Exactly why was it that America kept in place for so long a system that froze our schools in a time warp and denied to children of middle- and low-income families the same opportunity to choose the best schools for their children that fortunate families, like the Clintons and the Alexanders, enjoyed? Why indeed?

BANNING THE OCEAN DUMPING OF LOW-LEVEL RADIOACTIVE WASTE

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. WELDON. Mr. Speaker, I rise today to introduce the ocean nuclear dumping ban resolution. This House concurrent resolution expresses the sense of Congress that the United States should press for an international ban on the ocean dumping of low-level radioactive waste at the London Convention meeting which opened today.

Last week, the Clinton administration joined the Governments of Denmark, Argentina, Australia, Brazil, Chile, Finland, Germany, Iceland, Ireland, Italy, Japan, Malta, Mexico, The Netherlands, New Zealand, Papua New Guinea, Poland, Portugal, Solomon Islands, Spain, and Sweden in supporting amending the London Convention to ban the ocean dumping of low-level nuclear waste.

With the United States and 21 other nations supporting the prohibition, I am confident that international law will be revised to incorporate the ban.

In the past, international law alone has not stopped Russia from dumping radioactive waste at sea. Russia's former Communist leadership repeatedly violated international law by dumping high- and low-level radioactive waste into the world's oceans. Since 1959, the former Soviet Union dumped 18 nuclear reactors and a reactor screen, 7 of which contained spent nuclear fuel, thousands of cannisters of nuclear waste, and hundreds of thousands of gallons of liquid radioactive waste into the marine environment.

Even after the fall of communism, Moscow has continued to dispose of radioactive waste at sea. In mid-October, Russia dumped 900 tons of low-level radioactive waste in the Sea of Japan in violation of a previously agreed upon international moratorium.

According to Japanese press accounts, high-ranking Russian officials have admitted that ocean dumping of radioactive waste will continue. Passage of the ocean nuclear dumping ban resolution will send a powerful message to Moscow to end this practice.

The Environmental Defense Fund and Greenpeace have both endorsed the concurrent resolution. I encourage my colleagues to join me, the chairman and ranking member of the Committee on Merchant Marine and Fisheries, and the chairman of the committee's Subcommittee on Oceanography in supporting the ocean nuclear dumping bank concurrent resolution.

DIAMOND MANUFACTURERS AND IMPORTERS CELEBRATE 60TH ANNIVERSARY

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues an important industry in the city of New York.

The Diamond Manufacturers and Importers Association is comprised of America's largest and most reputable diamond manufacturing and importing firms. This group of business men and women, is dedicated to providing consumers with an assurance that the diamonds they buy, for those very special occasions, are of the quality and integrity they ought to be.

These outstanding individuals have as their main objective, the protection of the buying public by eliminating unscrupulous merchants who use dishonest and deceptive practices. At a time when so many Americans are turning to us and to the judicial system for assistance, I am pleased to represent an industry which truly heeds those words, "Physician heal thyself."

The DMIA impacts New York through its employ of 26,000 workers and almost 95 percent of the 1.32 billion dollars' worth of diamonds which enter the United States, are processed right here in New York City.

I would like to ask my colleagues to salute this distinguished organization for its professionalism and its persistence in ensuring diamonds remain the true symbol of excellence which they are.

NAFTA

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. PACKARD. Mr. Speaker, a lot of misinformation and exaggeration is coming out of the NAFTA opposition camp. Contrary to current hyperbole, NAFTA is going to cut in taxes.

Tariffs are nothing more than a hidden sales tax. The average American family spends more than $1,000 every year on imported goods because of tariffs. NAFTA will eliminate those hidden taxes. Currently, Mexican tariffs are almost 2½ times greater than our own. Fully half of all United States exports will be eligible for zero Mexican tariffs when NAFTA takes effect on January 1. Eventually, all tariffs will be eliminated. Americans will be paying significantly less in tariffs. A cut in tariffs is a cut in taxes.

But tariffs aren't the only cost of doing business. Businesses spend millions of dollars every year in other hidden costs. NAFTA will eliminate many of those costs. Bureaucratic hurdles will be taken down. Government red-tape will be stripped away. Licensing requirements are streamlined. Quotas are completely eliminated. Intellectual property rights are strengthened. And Mexican markets that are currently closed to United States businesses will be opened. That means American businesses that would have been forced to relocate south of border under current trade laws, could now stay in America.

All of these savings will be passed onto the American consumer in the form of lower prices. Once again, hidden sales taxes will be stripped away and Americans will be spending less for the products they buy.

But Americans will not only benefit from lower retail prices. United States business profits and personal incomes will increase as Mexican and Canadian consumers spend more of their money on our products. Canada and Mexico are already our second and third largest export markets, and the size of those markets are expanding every year. Just since 1986, United States merchandise exports to Mexico have risen an astounding 228 percent. Already 70 cents of every dollar spent by Mexico on foreign goods is spent on American products. NAFTA will lock in and expand those trade gains we've already made.

NAFTA means lower tariffs, increased trade, and higher incomes and profits. That translates into increased revenues and that's money in our pockets. NAFTA means a net gain for America. Don't be fooled by the rhetoric, NAFTA will reduce taxes for American workers and consumers.

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INSUFFICIENT FORCE

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. GINGRICH. Mr. Speaker, I would like to recommend that all my colleagues read the following editorial from the October 8, 1993, issue of the Washington Times.

As we prepare to face the challenges of "New World Order," I believe that it would be very helpful for all of us to reflect on the dangers of trying to micromanage the military in the field from the political corridors of Washington. As this editorial clearly points out, giving field commanders a free hand in meeting their objectives was essential in winning Desert Storm.

I certainly hope that Congress, as well as the White House and the rest of the executive branch of Government have learned something from the debacle in Somalia:

INSUFFICIENT FORCE

One of the first things the military heard from the new Clinton administration was that the good old times were over; the generals had better get used to being under civilian command now. During the 1980s, they had been pampered and much too often allowed to get their way. Well, now we know what happens when the advice of military men is overridden by politicians, who for one reason or another, believe they know better.

Yesterday, Secretary of Defense Les Aspin was on Capitol Hill to explain just how it could be that 100 U.S. Rangers ended up being pinned down the night between Sunday and Monday for 10 hours by Somali fighters under the control of warlord Mohamed Farrah Aidid, trying to protect two downed Blackhawk helicopters and their crews. In all, 12 lost their lives and 79 were wounded. Six are missing and one is in captivity. That's a staggering result. Details of their ordeal are now coming from soldiers being treated at a U.S. hospital in Landstuhl, Germany, and they are truly harrowing. Fighting snipers in trees, on buildings and on rooftops, they waited and waited for relief, getting picked off one by one. Even with superior training and equipment, our soldiers didn't stand a chance, being vastly outnumbered. They had to wait for hours for Pakistani and Malaysian troops to come to their rescue.

Meanwhile, the armored vehicles that could have been used to clear the streets of barricades—and which their commanders had requested from the United States in early September—were never dispatched. As reported yesterday by Bill Gertz of The Washington Times, Gen. Colin Powell twice last month conveyed the request from U.S. commanders in Mogadishu to Mr. Aspin for tanks and armored vehicles to protect the U.S. forces in Somalia, but the request was rejected by the secretary of defense.

Why was it turned down? Because, so Mr. Aspin told congressional leaders, he did not want to appear to be reversing what was then a reduction of U.S. forces in Somalia and because the equipment might be needed in Bosnia. That happened at the same time as the U.S. mission had actually expanded, now to include the hunt and capture of Mr. Aidid. It is worth recalling that the crack U.S. Rangers sent there by Mr. Clinton in August numbered a mere 300. The rest of the 4,700 U.S. forces there are not combat troops.

When George Bush decided that the time had come to evict Saddam Hussein from his new real estate in Kuwait, he gave his military commanders a free hand to decide how best to accomplish that goal. Anyone who has studied the memoirs of Gen. Norman Schwartzkopf will know how much that meant for the success of the enterprise. Sure there was pressure, but his demands and his reasoning were deferred to.

One should hope that Mr. Clinton and Mr. Aspin have learned something from the tragic events of this week. It's up to them to define clearly the political objectives of our presence in Somalia—and wherever else American troops are sent. The military means need to be left to the experts.

PUERTO RICAN HERITAGE MONTH COMMITTEE—COMITE NOVIEMBRE

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. KLEIN. Mr. Speaker, I rise today to acknowledge November 1993 as Puerto Rican Heritage Month in the State of New Jersey and in the United States of America. This acknowledgment is in conjunction with the tribute I presented before Congress on May 5, 1993, declaring 1993 as "Puerto Rican Heritage Year." I would also like to acknowledge the hard-working people of Comite Noviembre of New Jersey who are contributing to the success of this month.

Comite Noviembre is the national organization for Puerto Rican Heritage Month. The organization has chapters in New York, New Jersey, Illinois, Massachusetts, and Puerto Rico.

Comite Noviembre of New Jersey dedicates itself to shining the rays of Puerto Rican culture and heritage to the people of the State. The Comite Noviembre places an emphasis on educational excellence as a key to the future and seeks to promote awareness of Puerto Rican cultural, economic, and political contributions to communities throughout the State.

On November 11, 1993, Comite Noviembre of New Jersey headed by Chairperson Lillian Arocho will honor the Puerto Rican leaders of the State for their positive images and contributions to the Puerto Rican people. The event will applaud the past, recognize the pivotal impact of the leaders of the present, and provide example and cultural grounding to the young people who represent the emerging Puerto Rican leaders of the future.

I join with my colleagues in saluting this positive and productive group. The Comite Noviembre is working to make Puerto Rican Heritage Month a success.

HERBERT AND MARY MILLER CELEBRATE 40 YEARS OF WEDDED BLISS

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. POSHARD. Mr. Speaker, in an era when many are concerned with the demise of

the institution of marriage and the family unit in the United States, I rise today to honor Herbert and Mary Isabelle (Belle) Miller of Pope County, IL, on the occasion of their 40th wedding anniversary. Herbert and Mary were married November 8, 1953 in Nahaunta, GA. Herbert and Mary will gather with their children Tony and Debbie and the rest of their family and friends on November 8, 1993, to celebrate this joyful occasion.

Herbert and Belle have actively contributed to life in southern Illinois, participating in social, civil, and religious affairs. Herbert is retired from Central Illinois Public Service Co. with 18½ years of service and International Brotherhood of Electrical Workers as a business agent for 18½ years. Belle has dedicated her life to raising her children and being a homemaker.

Although, this anniversary may not make the national headlines, I believe we all could benefit from the fine example set by Herbert and Belle. Their commitment to marriage and family has prevailed through good times and bad. This feat, no doubt, required a tender balance of respect, humor, love, and affection. I join with the family and friends of this wonderful couple in celebrating this joyous occasion. To Herbert and Belle, my heartfelt thanks for all you have done for all those whose lives you have touched.

LEGISLATION INTRODUCED FOR FULL FEDERAL RECOGNITION OF THE LUMBEE INDIANS OF ROBESON AND ADJOINING COUNTIES

HON. CRAIG THOMAS

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. THOMAS of Wyoming. Mr. Speaker, I rise today on behalf of myself and Representatives YOUNG of Alaska and TAYLOR of North Carolina to introduce a bill to provide for the consideration of a petition for Federal recognition of the Lumbee Indians of Robeson and adjoining counties.

The Lumbee are a group of Indian descent living in southern North Carolina. They are an admixture of several different Siouan and other coastal tribes, including the Cherokee, Tuscarora, Hatteras, Pamlico, and early white colonists and African-Americans. At present, the Lumbee are not a federally recognized Indian tribe. "Recognized" means that the United States acknowledges the existence of a government-to-government relationship with an Indian tribe, a prerequisite to the members of the tribe receiving the services available from the Bureau of Indian Affairs [BIA].

The Lumbee have, however, petitioned the BIA for recognition. Within the BIA there is an office called the Branch of Acknowledgement and Research [BAR] charged with evaluating petitions for recognition and recommending either acceptance or rejection of a tribal petition to the Secretary of the Interior based on a set of seven criteria used to determine tribal status. The BAR began evaluating the Lumbee petition, but ceased its consideration when the BIA solicitor ruled that under a 1956 act of Congress the Lumbee were barred from going through the petitioning process.

Mr. Speaker, the historical basis for this bar is fairly straightforward. In 1885, the State of North Carolina designated a group of Indians in and around Robeson County, NC—the ancestors of the present Lumbee—as "Croatan Indians." By 1911, however, the designation had been popularly shortened to "Cro" and was used by non-Indians as a racial pejorative which the Indians found extremely objectionable. In addition, the term was one not recognized by historians, ethnologists, or bureaucrats in the Federal Government because "[I]t had no historical precedent and was based on the name of a place, not the name of a people." Therefore in that year, at the group's request, the State legislature changed the group's name to "Indians of Robeson County." That change, however, "pleased nobody and settled nothing," since in the opinion of many Lumbee it served only to obscure further the claimed origins of the group. Consequently, in 1913, again at the group's request and despite the vehement protests of the federally recognized Eastern Cherokee Tribe in the western part of the State, the name was changed to "Cherokee Indians of Robeson County."

From 1910 to the 1930's, supporters of the group introduced several bills in Congress to give them a Federal designation variously proposed as "Cherokee Indians of Robeson and adjoining counties," "Southeastern Cherokee," "Cheraw," and "Siouan Indians of the Lumber River." In 1953, they finally settled on adopting a derivation of the name of the Lumber, Lumbee, River, which flows through Robeson County, as their self-designation. In justification for the change, one of the group's leaders wrote:

> The first white settlers found a large tribe of Indians living on the Lumbee River in what is now Robeson County—a mixture of colonial blood with Indian blood, not only of [Raleigh's] colony; but, with other colonies following and with many tribes of Indians; hence, we haven't any right to be called any one of the various tribal names; but, should take the geographicalname, which is Lumbee Indians, because we were discovered on the Lumbee River.

In 1956, Congress passed a commemorative bill designed to reflect that change in the group's self-designation made three years earlier at the state level. The Act provided:

> That the Indians now residing in Robeson and adjoining counties of North Carolina, originally found by the first white settlers on the Lumbee River in Robeson County, and claiming joint descent from remnants of early American colonists and certain tribes of Indians originally inhabiting the coastal regions of North Carolina, shall, from and after the ratification of this Act, be known and designated as Lumbee Indians of North Carolina.

However, to ensure that nothing in the act would be construed as granting Federal recognition to the group as that term is understood in Indian law, an amendment was added to the legislation which prohibited the Lumbee from obtaining any Federal services available to Indians because of their status as Indians—that is, any services offered by the BIA. Later, after the Lumbee had submitted their petition to the BAR in the early 1980's, the solicitor ruled that this prohibition extended to the petitioning process, and barred the Lumbee from the process.

Partly as a result, the Lumbee have sought legislative recognition outside the BAR process in the last two Congresses. I and my Republican colleagues have steadfastly opposed this form of recognition, since the Congress is not equipped to make such a complex and important determination based on anthropological, ethnohistorical, and genealogical data. Instead, when recognition legislation—such as H.R. 334 introduced this session—has come before the Committee on Natural Resources, we have offered in committee to remove the bar to the process in the 1956 act, thereby allowing the Lumbee to proceed through the process like every other group in the country must in order to become recognized.

The Lumbee, though, have consistently fought our amendment, preferring the quick fix of legislative recognition instead. This preference has, unfortunately for them, left the group emptyhanded. Once a bill to legislatively recognize the Lumbee passes out of the House, as it did this year by a narrow margin of 223 to 184, it dies a languishing death in the other body which opposes legislative recognition for the Lumbee for the same reasons I and my colleagues have.

Mr. Speaker, I have introduced this bill in the hope that, as it become evident to the Lumbee and their supporters at the close of the Congress next year that H.R. 334 will meet the same demise in the other body as did its predecessors, they will have a viable alternative available to them in the form of our legislation. If they had only accepted this reasonable compromise when it was first offered more the 5 years ago, they could have been through the system already and received the recognition to which they contend they are entitled.

I hope that all my colleagues will join me in supporting the Lumbee quest for recognition through the administrative process by supporting this legislation.

SOMALIA'S NEEDLESS DEATHS

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. GINGRICH. Mr. Speaker, I hope that all of my colleagues will take a moment and read the following editorial by David Beckwith entitled "Somalia's Needless Deaths" which appeared in the November 1, 1993, issue of the Wall Street Journal.

I join Colonel Beckwith in saluting the Ranger/Delta unit which valiantly served in Somalia. They were put into a terrible situation and paid a heavy price for trying to help the Clinton administration in struggling to define the use of force and practice peacekeeping in the post-cold war world.

Colonel Beckwith describes some very valid and thought-provoking lessons from the tragedy in Somalia, and I believe that the military as well as the White House and Members of Congress must begin to wrestle with these very difficult issues before we again put American soldiers into an extremely tough predicament without the support or military leadership which is required for us to be militarily successful in peacekeeping missions in the future.

It makes my blood boil and brings tears to my eyes when I view the television news and read in the media all the criticism focused on the performance of the U.S. Rangers and Delta Force in Somalia.

Despite Maj. Gen. William Garrison's recent letter to President Clinton accepting full responsibility for the now infamous Ranger/Delta operation of Oct. 3, this was indeed nothing more than another case of U.S. forces being placed under United Nations command and suffering for it.

Newspaper accounts have painted the operation as a lone U.S. endeavor. But the facts show that, although there was a separate U.S. command, the Ranger/Delta operations were ultimately subject to the approval of a U.N. authority.

The result: U.S. forces were put into a situation where they were not allowed to prosecute the mission to the full extent of their abilities. They were dropped into a hostile territory with limited rules of engagement, forced to operate outside their normal chain of command and denied the necessary equipment that is part of their standard operating procedure. And if that's not enough, this was all inflicted on them by the civilian military leadership of this country.

OBTUSE DECISION

First of all, let's be honest about these "U.N." missions. The true source of military might behind the U.N.'s words are the soldiers, sailors, airmen and Marines of the U.S. armed forces. Mr. Clinton's decision to place American combat troops under the command of U.N. military officials in Somalia was obtuse. Every military force around the world is different. Some are well-trained and others are not; many lack the leadership and desire necessary to get the job done. In multinational forces, there is also usually a language problem, and differing values and religious beliefs.

As a young Special Forces captain in 1962–63. I served as an exchange officer with the elite British 22nd Special Air Service Regiment, where none of these issues was a problem. Nevertheless, it took me about three months to truly understand the ins and outs of the regiment.

If the U.S. is going to continue to act asthe world's policeman, and in certain instances I agree we should, then we need to organize and train a multinational force for that purpose. Let's stop kidding ourselves that U.S. forces aren't the real teeth of the U.N. Let's stop putting our soldiers in situations like downtown Mogadishu—which could easily be avoided if we only admitted that the U.N. fighting forces aren't up to snuff and need to meet U.S. standards of readiness and expertise. It is a grave mistake to give the most elite and best-trained soldiers in our Army the task of mending political fences around the world without ensuring they have the support to back them up.

Delta operators and Rangers are trained to kill. It is imperative that they carry only those items of equipment that are essential to accomplishing their mission: weaponry, ammunition and a good, sharp knife. In this respect, the operations in and around Mogadishu were no different, requiring Rangers and Delta operators to travel light. The difference was that they were forced to depend on other "friendly" U.N. units for support fire and reinforcement. One of the many problems in Mogadishu on Oct. 3 stemmed from the fact that other friendly forces, for the reasons I outlined above, were not quick to respond. Hence, the Ranger/Delta contingent was left unsupported for an extended period of time.

The second lesson of the Somalia mission is that we should not leave the most vital military decisions—the actual planning and execution of military operations—to civilians. To be sure, our democratic principles and the Constitution require that military officers be ultimately accountable to civilian leaders in the Pentagon. But the commander in chief, and members of Congress on the appropriate subcommittees, should strive much harder to fill these civilian posts with either former military personnel or, at the very least, knowledgeable pro-military civilians.

Which leads me to my next point. There was another serious flaw in the support of the special operations effort in Somalia. It was the poor performance on the part of Defense Secretary Les Aspin. He has never been a friend of the military establishment and for the past 20 years, as a member of Congress, he looked for ways to limit our military services. I was not surprised to learn that he disapproved—10 days before the Oct. 3 firefight—two critical requests from the leadership of the Ranger/Delta contingent in Somalia for heavy armor and air support.

It was determined from the outset that the Special Operations contingent—tasked with catching Mohammed Farah Aidid—required an armor package and C–130 gunships. The responsibility for the loss of 18 soldiers on Oct. 3 rests on Mr. Aspin's shoulders. He should be held accountable for his poor performance as defense secretary and resign.

Finally, there has been much criticism in the press and from Pentagon personnel of the decision to surround and defend a helicopter from the 160th Special Operations Aviation Regiment that was downed by a rocket-propelled grenade fired by Gen. Aidid's forces.

To find "the problem" with the operation and—I believe—to let the administration off the hook, many have cited the fact that, after the wounded were evacuated, the Rangers decided to stay with the body of the dead pilot, waiting for reinforcements and proper rescue equipment to pry the body loose from the wreckage. More offensive yet, as reported in the press, a senior Pentagon official, who had the disdain to remain anonymous, was critical of the Rangers' planning and techniques, calling the decision to stay by the dead pilot "emotional."

Far from criticizing such actions, I must agree with Ranger Platoon Sgt. Robert Gallagher, who defended his fellow Rangers at the crash site. "Some people may think it is not normal to stick around a dead pilot," Sgt. Gallagher was quoted as saying in newspaper accounts. "But when you work with people on a daily basis, you develop a bond. Whether you are killed or wounded, you need to have someone look after you." God bless you, Sgt. Gallagher, and to hell with the critics.

As far as I'm concerned, any military personnel, much less civilians who have never seen combat, who criticize the performance of the Ranger/Delta unit during the Oct. 3 battle in Mogadishu haven't a leg to stand on. For 11 hours and without any support, that unit held off a numerically superior enemy force. While the battle took a heavy toll, this was in fact the first time that many of these young Rangers had smelled the smoke and heard the crack of an enemy bullet. And when the relief force did show up, it is well documented that the Pakistani soldiers in the M–48 tanks failed to engage Gen. Aidid's forces with the ferocity that U.S. forces would have displayed. And despite all this, the Rangers lost only 18 men. Damn impressive.

Meanwhile, the press is quick to bury the fact that this unit inflicted close to 1,000 casualties on Gen. Aidid's forces: about 300 dead and 700 wounded—possibly more. That's a 10-to-1 kill ratio. I defy any other country in the world to put a unit in the same situation and have even one solder walk out alive.

REASONS FOR PRIDE

One thing should be made clear to the citizens of the U.S.: We should be very proud of the job these young Rangers and Delta operators did in Somalia, in spite of all the problems they faced. And those who died, regardless of what this administration would like you to believe, did so not because of a lack of training or unnecessary heroics, but because they were put in an impossible situation by civilian authorities who don't know the first thing about conducting a precise, paramilitary operation—or when such an operation is called for.

The blood of those Ranger and Delta Force personnel who died in the streets of Mogadishu, protecting a comrade they had the utmost trust in and respect for, is on the hands of this administration.

NAFTA

HON. JILL L. LONG

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Ms. LONG. Mr. Speaker, many times in the past, I have voiced my support for free trade. I believe that free trade, carried out on a playing field that is level and fair, benefits everyone involved.

Furthermore, I believe a North American Free Trade Agreement could have tremendous benefits for all three countries involved. But the NAFTA that Congress will vote on in the next few weeks falls short of being fair. I do not believe that the North American Free Trade Agreement, as it is currently written, creates a level playing field for everyone involved. Therefore, I intend to vote against the agreement when it comes before the House of Representatives.

I have a number of concerns with the current version of the NAFTA. The first is with the potential adverse impact that the agreement may have on rural areas of the United States. Liberalized trade could provide increased agricultural markets for American products. However, agriculture provides less than 10 percent of the jobs in rural areas, and the impact of a trade agreement on rural areas, as well as urban areas, must be taken into consideration.

Studies indicate that job losses in the United States will be concentrated in low-wage, low-skill professions. Nearly 70 percent of low-skill, low-wage jobs are located in rural areas. The closure of a factory that is the economic lifeblood of a rural community would be devastating. Glassware, automotive parts, and brooms—all important to Northeast Indiana communities—will be particularly hard hit. People will be forced to migrate to cities, adding further stress to an already overburdened segment of our economy.

Regardless of where job losses occur, the fact is, they are job losses. Canada lost 23.1 percent of all its manufacturing jobs in the first 3 years after beginning free trade with the United States. While that could have been

partly due to the recession, in the absence of solid evidence to distinguish the source of the job losses, we must be concerned. Our own economy is making a fitful recovery out of recession, and I am not confident that we are ready for the impacts that could accompany a trade agreement like the current NAFTA. It could exacerbate or worst economic problems: disappearing jobs and declining wages.

Another issue about which we should all be concerned in tight budgetary times is how to pay for a NAFTA. It is not fiscally responsible to talk about environmental cleanup or job training and retraining when the implementation of an agreement will mean the loss of up to $3 billion in tariff revenues. Our current budget rules require us to make up those lost revenues. with further spending cuts or from increased revenues elsewhere.

Even with the separately negotiated side agreements on labor, the environment, and import surges, I am not convinced that the NAFTA provides adequate protection in these areas. The United States—or any partner—would have little recourse in settling disputes that could arise because the enforcement provisions within the agreement are cumberson and bureaucratic. I've read that the Mexican Minister of Commerce has scoffed at the enforcement procedures saying that the process will be so drawn out that sanctions—necessary to compel a country to comply with the agreement—will never be levied.

Trade between the United States and our neighbors is too important not to have agreements that promote and preserve fairness. The benefits of free trade can be many when trade is fair, and I believe all the parties involved in negotiating this NAFTA recognize that the fact. Unfortunately, the North American Free Trade Agreement, as it is currently written, falls short of too many standards to be truly fair. Although the concept of free trade is supportable, this free trade agreement is not. Should it not be ratified, I am confident that the United States, Canada, and Mexico can return to the negotiating table to find an agreement that all three can support.

RITA AND STANLEY KAPLAN HONORED FOR COMMITMENT TO COMMUNITY

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mrs. MALONEY. Mr. Speaker, I rise today to pay tribute to two of the most caring, concerned, and philanthropic members of the New York community, Rita and Stanley Kaplan.

Mr. and Mrs. Kaplan are well known benefactors of several institutions such as the Kaplan Comprehensive Cancer Center at the New York University Hospital, the Brooklyn Museum, Carnegie Hall, and the Jewish Museum. Furthermore, they are active promoters of minority education programs through the Kaplan Educational Centers and various scholarships. Both Rita and Stanley are also active supporters of the Albert G. Oliver Program which provides tuition benefits to promising underprivileged students.

In addition to their work on these worthy causes, Stanley Kaplan serves on the boards of the Brooklyn Academy of Music, the Roundabout Theater, the New York University Medical Center, and chairs the City College Fund as well as the Brooklyn Philharmonic. He began his career as a tutor in 1938 and built Stanley H. Kaplan Educational Centers into this country's leading educational test preparation provider. There are 155 Kaplan centers throughout the world.

Rita and Stanley have spent their lifetimes giving back their good fortune to the community. For their achievements, Rita and Stanley are to be honored at the Fourth Annual Interfaith Concert of Remembrance and the Commemoration of the 100th Anniversary of the Cathedral of St. John the Divine. I am deeply pleased to have been asked to participate in that ceremony and I hope my colleagues will join with me now in applauding their tremendous contributions to their country and their city.

HOUSE PAYS TRIBUTE TO ROTARIANS OF DISTRICT 7190

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. SOLOMON. Mr. Speaker, on November 14, 1993, the Rotarians of district 7190 will gather for their annual meeting in Albany, NY.

Paul Harris is the founder of Rotary International, which, through the Rotary Foundation, has led the way in the promotion of world peace and understanding through its various international, charitable, and educational programs.

The foundation has provided over 1,000 scholarships for graduate, undergraduate, and vocational, and journalism scholars, as well as teachers of the handicapped. The foundation can also point to over 400 study group exchanges and humanitarian projects.

One of the most prominent programs of the foundation is Polio Plus, which has raised over $300 million all over the world, to immunize children against polio. During 1988, I had the privilege of awarding a congressional plaque to Walter Maddocks, who was international chairman of Polio Plus.

Mr. Speaker, I am proud to call myself a Rotarian, and friend of Rotary International. I ask you and other members to join me as we pay our tribute to district 7190.

MEDISAVE ACCOUNTS: THE ETHICAL HEALTH REFORM

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. GINGRICH. Mr. Speaker, as we prepare to begin the debate on health care, I would like to call your attention to an article on health care reform written by Merrill Matthews, Jr. Mr. Matthews is the health policy director of the National Center for Policy Analysis and the ethicist for Richardson Medical Center in Dallas, TX.

Mr. Matthews' analysis addresses the growing concern about patient autonomy under the health care plan proposed by the Clinton administration. Mr. Matthews argues that the plan proposed by the administration, which will force Americans into a system based strictly on Government-run managed competition, further removes the patient from the decision-making process because the majority of health care decisions will be based on the cost of the procedure, rather than patient input. Presently, Canadians are experiencing the effects of a cost-based system in which patients can expect to wait months for procedures ranging from CAT scans to heart by-pass surgery. In the Canadian system, patient choice is restricted because the Government, rather than the people, controls the costs.

In contract, Mr. Matthews goes on to assert that a plan including medical savings accounts, often referred to as Medisave, is the only health care proposal that respects individual choice and places control in the hands of the consumers. He contends that Medisave accounts allow for patient automony, while at the same time, advocating savings and prudent health care decisionmaking. Moreover, Mr. Matthews argues that Medisave accounts encourage people to make more responsible health care decisions because it is their money that is being spent. This is a sharp contrast to the current system in which the money of a third party is being used to pay for health care needs.

In the coming months, the health care debate will be the focus of attention for all Americans. It is my hope and desire that, above all, we remember that this is America. We are not Canada, we are not Germany, our society is unique and is founded upon the principles of individual liberty for all of its citizens. As we determine the health care plan that is best for this country, let us focus not on curing what is wrong with America, but rather resolving this dilemma with what is right with America—individual liberty and choice.

MEDISAVE ACCOUNTS: THE ETHICAL HEALTH REFORM

Though medical ethicists disagree on a number of issues, on one point almost all concur: Patients who are conscious and competent should have control over their bodies in medical decisions. That means that nothing should be done to the patient without "informed consent." However, the concern that medical ethicists show for patient autonomy has been absent from the recent political debate over health-care reform. Indeed, a number of proposals—including President Clinton's—move in precisely the opposite direction.

Only one health-care reform idea before Congress incorporates sound economics and actually encourages patient autonomy: medical savings accounts.

The primary justification given for moving away from patient autonomy is that patients do not have the knowledge or emotional stability to make intelligent decisions about medical care or the ability to receive conflicting medical opinions. But this justification runs counter to what most ethicists believe about informed consent.

Medical schools, for example, establish committees known as institutional review boards to oversee research on humans. One

of the board's primary concerns is that researchers develop an informed competent document that explains in terms a layman can understand the reason for the research, what the researcher expects the patient to experience and gain, and what the researcher hopes to learn or accomplish by the experiment.

The board assumes that it is possible to make this information clear and understandable to a patient and that most patients, even for fairly esoteric procedures, can make a reasonably informed decision about whether to consent.

When it comes to standard health care, however, many people in the health policy community do not believe that patients, even after consultation with their physicians, can make informed decisions.

The president's proposal, for example, is based in part on moving most Americans into health maintenance organizations, where "managed care" increasingly has come to mean interference in the doctor-patient relationship.

A patient can receive drugs or treatments and perhaps never learn that there were better, more expensive alternatives that were not used because an insurer did not want to pay for them. In effect, medical ethics has succumbed to medical economics, as paternalism is given precedence over autonomy.

Les Aspin learned this fact the hard way. When he became secretary of defense, he needed additional vaccinations because of his expanded international travel itinerary. His physicians gave him a vaccine slightly more risky than one that would have cost $1.55 more, and Mr. Aspin ended up in intensive care as a result. To my knowledge, he was never asked if he would be willing to pay $1.55 out of pocket to avoid the risk.

Or consider the case of Sen. Bob Dole's prostate cancer. Most managed-care plans see little medical benefit in a cancer blood test known as prostate-specific antigen, and therefore do not routinely provide it. Fortunately, Sen. Dole had the opportunity to make his own decision and opted for the test in 1991. It led to a biopsy and the surgery he contends saved his life.

While a Canadian-style system of national health insurance gives the patient a free choice of physicians. The ultimate power for decision making is in the hands of a health-care bureaucracy that determines how much money will be allocated to each health-care facility. People who need heart bypass surgery or a brain scan may have to wait months before it is their turn. Patients are allowed to make very few choices about what type of health care they receive, because the government—rather that the patient—controls the money.

Medical savings accounts, often referred to as Medisave accounts or medical IRAs, respect autonomy and put power into the hands of the patient. No other health-care reform no proposal can make that claim. That makes medical savings accounts the most ethical proposal for health-care reform now available.

These accounts would help to reverse the convoluted incentives operating in the American health-care system. Under our current third-party-payer system, the vast majority of patients pay only a small fraction of their medical bills. The bulk of the expense is paid by insurers, employers and the government. This has led to systematic overuse by consumers who see little reason to limit the amount they are spending of someone else's money, and by health-care providers who have little economic reason to weigh the cost vs. the benefit of a medical procedure. "To stem this overuse, third-party payers are moving to restrict or deny the choices of their clients.

By contrast medical savings accounts minimize the role of third-party payers by giving people the opportunity to set aside money each year in a special, tax-free account to pay for small medical bills, while using high deductible, catastrophic insurance to cover major expenses. For example, instead of the employer providing $4,500 for a family policy, the employee could take $1,700 of that money and buy a catastrophic policy with a deductible of $2,500 to $3,000. He then would deposit the premium savings of $2,800 in the Medisave account.

Medical savings account funds could accumulate and be used for health expenditures before or after retirement, or they could become part of the estate at death. Deposits could be made by employees or by their employers, but the medical savings account would be personal and portable and would belong to the employee.

Medisave accounts would permit people to pay for most health care expenditures with their own money, encouraging them to become more prudent shoppers. They would have an incentive to avoid waste but would not be denied needed care because of a lack of funds. For most medical decisions, no one would come between the physician and the patient.

It is likely that medical savings accounts would impose a greater burden of responsibility on the physician to inform the patient about alternative therapies and their costs. Similarly, Medisave accounts would impose a greater burden of responsibility on the patient to be a more informed and rational consumer.

But then, that's the ethnical thing to do.

TRIBUTE TO THE CLIFTON JEWISH CENTER

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. KLEIN. Mr. Speaker, I rise to pay tribute to an organization that has offered guidance and support to the Jewish community of Clifton, NJ. The Clifton Jewish Center is celebrating its 50th year anniversary and I join with my colleagues in congratulating the congregation and its members.

From its beginnings in 1943, with only a handful of families to its present numbers nearing 500 family members, the center has provided a constant source of cultural and spiritual events for all age groups. The center's main purpose has always been to enrich the lives of the people of Clifton and it achieves this by offering many educational and social activities in which adults, children, and senior citizens can become involved.

Youth activities such as lectures, workshops, religious school, and Hebrew High for students after their bar mitzvah, bat mitzvah or confirmation help teach the children about the Jewish faith. Events for adult and senior members continue to carry the traditions of the culture and faith as well as provide opportunities for socializing.

The center educates not only its members, but non-Jews as well on the meaning of religious and secular events. Rabbi Markovitz of the Jewish center gained nationwide recognition for his method of disciplining non-Jewish youths who had vandalized the center. he spent many hours teaching them the concepts of brotherhood and Judeo-Christian values.

For 50 years the city of Clifton has benefited from the positive influence the Clifton Jewish Center has provided. I wish the center many more wonderful years and continued success.

TRIBUTE TO NNENNA LYNCH

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. WELDON. Mr. Speaker, I rise today to honor Nnenna Lynch, one of the top 10 finalist, for the 1993 NCAA Woman of the Year.

As a recent graduate of Villanova University, Ms. Lynch has excelled as the University's most outstanding student-athlete in recent history. Her numerous accomplishments including finishing third individually as a senior in the NCAA cross country championships as well as leading her team to four consecutive NCAA championship titles and undefeated seasons.

On the track Nnenna has also dominated the field as one of the Nation's top 3,000M athletes. Earning her mark in June of 1992 as the NCAA division 1 outdoor track champion in this event, she went on later that summer to be a finalist in the 1992 United States Olympic trials. In all, she has accumulated eight NCAA All-American honors and was recognized for her outstanding career at the 1993 Penn Relays.

In addition to her athletic accomplishments, Ms. Lynch graduated summa cum laude last May with an overall grade point average of 3.91. Her dedication in the classroom paid off last December when she was one of 32 Americans to receive the prestigious Rhodes Scholarship. Nnenna began her studies at Oxford University in England last month.

In conclusion, I would like to congratulate Nnenna Lynch on her many athletic and academic accomplishments and wish her luck on November 9, 1993 when the 1993 NCAA Woman of the Year will be announced here in Washington, DC.

KIDS 'N KUBS KICK OFF THEIR 64TH SEASON IN ST. PETERSBURG, FL

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. YOUNG of Florida. Mr. Speaker, the Kids 'n Kubs Softball Club kicked off its 64th season at the North Shore Park in St. Petersburg, FL, this past Saturday and I salute these gentlemen and encourage all to attend a game played by these true sportsmen.

This is not just another softball league, Mr. Speaker, it is a very unique league that is nationally renowned, not only for its quality of play and sportsmanship. What makes the Kids

'n Kubs unique is that the players must be 75 years of age or older. In fact, the oldest player George Bakewell is 101. Their enthusiasm for the game, the competitiveness of the players, and the tradition of the Kids 'n Kubs, down to their white shirts and bow ties, makes their Congressman proud.

When founded by Evelyn Barton Rittenhouse in 1930, the Kids 'n Kubs were first known as the Three Quarter Softball Club. Since then, for 5 months each year, from November through March, the Kids 'n Kubs play softball 3 days a week.

Having been featured in news reports and television special all over the country, the Kids 'n Kubs have grown in size and in reputation. Softball enthusiasts from across the United States retire to Pinellas County in hopes of playing for the Kids 'n Kubs. With the opening of each new season, the teams welcome those rookies who have made it into the big leagues and remorsefully pause to remember former teammates who are no longer with them on the diamond.

Mr. Speaker, any time I have a break in my schedule, I try and take in a Kids 'n Kubs game because they exemplify the true spirit of amateur athletics. There are no million dollar contracts or prime time televised games. The players do not even keep track of wins or loses. Instead, they play for the shear love of the game remembering that a true sports hero is always a gentlemen.

My best wishes go out to all the players and fans for another season of fun and good hard competition.

CREATING A CRISIS

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. GINGRICH. Mr. Speaker, I would like to call your attention to an editorial written by Malcolm Forbes, Jr. in the September 27 issue of Forbes Magazine. In his article Mr. Forbes pinpoints what I believe are some key issues concerning the health care reform package proposed by the Clinton administration.

First, changes to our health care system that jeopardize the parts of the system that work well, such as those proposed by the administration, are not necessary to solve the problems which currently exist. The establishment of a health care bureaucracy to implement a system based strictly upon Government-run managed competition will lead to the type of medical rationing seen in many socialized medical systems around the world.

Second, Mr. Forbes asserts that the Clinton plan fails to address one of the primary reasons for the rising medical costs we are currently experiencing—consumer responsibility. He maintains that if consumers were responsible for their health care decisions, a substantial savings could be realized as a result of more prudent purchasing.

President Clinton's plan is unique, it offers amputation as a means to stem the bleeding we are experiencing in the current health care system. Furthermore, Clinton's proposal recommends the yoke of bureaucracy to ease the burden for the American health care consumer. Mr. Speaker and fellow colleagues these are not the answers. It is my desire, and I hope yours as well, to work together toward a plan that mends old wounds rather than creates new ones.

CREATING A CRISIS

(By Malcolm S. Forbes, Jr.)

President Clinton's about-to-be-unveiled package of health care "reform" violates the first law of medicine: Do not harm the patient.

The proposals will lead to medical rationing and will emasculate research and development, the gemstone of American medicine. We will have fewer choices about who our medical providers are. We will pay more and get less.

The Clintons' plan will also harm the economy. The phase-in for small businesses won't dilute the poison but will merely stretch out the inevitable result—bankrupting hundreds of thousands of enterprises.

The basic flaw of the plan is its top-down approach. The White House package would still rely on employers, government bureaucrats and insurance companies to run and regulate the system. Don't the President and like-minded "experts" see the irony of the phrase "managed competition? What is it about health care that makes us think of trends we would normally consider positive-greater demand, technological breakthoughts, living longer—as negative?

The problem with American medicine is not its quality or availability but the way it is financed. Most insurance premiums are paid by employers with pretax dollars, while most individuals have to use aftertax dollars. Having the illusion that someone else is paying, we pay too little attention to the prices of health products and services.

The solution is simple. Change the tax code so that individuals can buy medical insurance with pretax dollars, and permit people to set up medical IRAs or savings accounts funded by pretax dollars.

Most individuals would opt for insurance with high deductibles, say between $1,000 and $3,000. The savings would be enormous (a $2,000 deductible could slash the premium by 50% or more), and some of it could be put into IRAs. The money would accumulate, tax-free, to be tapped for routine medical bills or insurance premiumsduring a bout of unemployment or to supplement Medicare after age 65 or even to add to retirement pensions.

Such tax-code reforms would cut an enormous expense by reducing the paperwork of routine claims and, more important, by encouraging consumers to comparison shop. They would know that generic drugs might be just as effective and significantly cheaper than brand-name ones. People would be able to spend more on prevention. Hospitals would learn to quote prices in advance for elective surgery and other medical procedures. Health care providers are more likely to overcharge insurance companies or the government than they are individuals.

With free-market forces in operation, we would make more effective use of our nurses, who can provide us with most forms of routine care. During hospital stays we would have fewer high-fee, two-minute "consultations" from so many physicians. And we could focus efforts to help those with chronic illnesses who couldn't get catastrophic insurance and couldn't afford to set up medical IRAs.

We would feel richer. Individual compensation has increased in real terms over the past 20 years, but most of that has come in the form of medical insurance, not cash. A company in New York can pay in excess of $6,000 for an employee's family health insurance policy.

There is a myth that free enterprise can't operate in the medical field because people can't substitute their judgment for that of a doctor. But you don't have to be a farmer to buy food; a carpenter, a house; an aeronautics engineer, an airline ticket. Obviously, a heart-attack victim isn't going to negotiate prices in an emergency room, but an insurance policy can do that in advance. Most health care consumption, moreover, is not emergency-related.

With consumers realizing that it's their money that buys health care, they would effectively regulate, stimulate this market just as they do others, including the most basic one of all—food.

GREATER BLOUSE, SKIRT AND UNDERGARMENT ASSOCIATION'S 60TH ANNIVERSARY HONORED

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues an important event which will take place in my district on November 19. That date will mark the 60th anniversary of the Greater Blouse, Skirt and Undergarment Association [GBSUA]. This association represents 30,000 hard-working members of the labor movement and over 540 manufacturers. The GBSUA's growing membership is one of the most important apparel production forces in our great city.

The GBSUA's hard-won successes of the past few years are a testament to the diligence and dedication of both labor and management as they have fought off foreign competition. They have done this by investing in their plants and equipment, but most importantly, in their work force.

The goal of the GBSUA is to return New York City to its place of prominence as the premier producer of women's apparel in the United States. The label "Made in New York" is already synonymous with quality and integrity throughout the world.

I am proud to report of the GBSUA's recent accomplishments such as a bilingual newsletter and a marketing program designed to promote their capabilities. And because the Greater Blouse, Skirt and Undergarment Association is a truly shining example of American industry, I hope my colleagues will join me in congratulating them on their 60th anniversary.

PRIDE, PATRIOTISM WERE BYWORDS OF HAROLD J. WILLS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. SOLOMON. Mr. Speaker, pride and patriotism. Those are the two words Harold J. Wills has followed all of his life.

I am going to miss this old former marine when he returns to his hometown of Scranton, PA, following 27 years of Government service, most recently as special assistant to the Sergeant at Arms for Physical Security here in the House of Representatives.

When the Korean war broke out, Harold Wills enlisted in the U.S. Marine Corps and served proudly. For the last 6 years, he coordinated the Congressional Marine Breakfast Group.

Mr. Wills is a carpenter by training. He began as a master carpenter, and served 10 years as an instructor for the Joint Carpentry Apprenticeship Committee here in Washington, where he was able to pass on his love of building and working with his hands. His interests soon expanded to security, and he became a certified locksmith. Again, he felt motivated to share his knowledge with others, and became an instructor for the American Association of Locksmiths.

His House career began in the cabinet shop. He was promoted to special assistant to the House Clerk, and finally to his most recent position.

Mr. Wills eventually found a way to combine his particular talents with his love of American history. He began collecting historical memorabilia. He created a number of special plaques and pen sets made from pieces of the original White House roofing and burned wood from the Capitol which were destroyed by the British during the War of 1812. He has presented his works to Presidents Ronald Reagan, George Bush, and Bill Clinton, to former Speakers Tip O'Neill and Jim Wright, to former Marine Corps Commandant Al Gray, to Pope John Paul II, and to many other dignitaries.

Mr. Wills is the son of the late Mary and Richard Wills, Sr. He is married to the former Marion Helen Hart and has lived in northern Virginia for the last 32 years. They have three daughters.

Mr. Speaker, Harold Wills is one of those uncommon common men who have made America the great country it has always been. Every time I go to Marine Corps Breakfasts, I will think of the great American patriot who organized them, and who served his country so well for so many years.

I would ask everyone to join me in a salute to our good friend, Harold J. Wills, and to wish him all the best during his well-deserved retirement.

QUESTIONS ABOUT PEACEKEEPING

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. CRANE. Mr. Speaker, at the outset of World War II, the attack on Pearl Harbor catalyzed public opinion and the American people were ready to go to war with a clear sense of purpose about who and why we were fighting. In conflicts since that time, public opinion has been more often mixed about United States involvement overseas because our goals have not been nearly so clear.

I fear that the families of the men and women serving in Somalia today might not be able to draw on that same sense of purpose evident in World War II, because our Government has failed to specifically define either our goals or our purposes in this operation. As valiant as our soldiers' service has been, I believe that in the long run, their sacrifices will not have been made toward a specific purpose, and the families of those who make the ultimate sacrifice will be left with far more questions than answers.

Such is the case for retired Army Lt. Col. Larry E. Joyce, whose son was killed in Somalia. I have inserted for the record an article from the October 20, 1993, edition of USA Today, in which Joyce poses a number of important questions that the Clinton administration and the Pentagon must answer.

Among the important issues he raises is the question of why adequate reinforcements were not provided for the Ranger units that were eventually pinned down. At least part of the answer lies in the fact that the United States did not have adequate armor in country, due to Secretary Aspin's denial of requests to deploy tanks and armored personnel carriers.

I believe that the answers to Joyce's questions can only lead to one conclusion—that we should immediately withdraw our men and women from Somalia. Any other decision will only put more lives unnecessarily at risk and can only lead to more parents like Colonel Joyce.

[From USA Today, Oct. 20, 1993]

DID MY SON HAVE TO DIE?

(By Larry E. Joyce)

U.S. Army Rangers are the most highly motivated and best-trained soldiers in the world. They volunteer four times: They volunteer to be soldiers. They volunteer to be paratroopers. They volunteer to serve in one of three elite Ranger battalions. Then, they voluntarily stay in a Ranger unit despite grueling physical and emotionally draining assignments.

They are kept in places like Panama, England, Korea, Egypt and Thailand for weeks at a time. They can walk away and join a less demanding assignment any time—no questions asked.

They are a national treasure. I'm proud my son chose to be an Army Ranger. He died in the arms of the finest soldiers this nation ever produced. I only wish I could have been there to fight at his side. But now, I'm questioning why he died.

At the peak of deployment in January, about 25,000 troops were in Somalia to provide security for a humanitarian mission. Once that was completed all but about 4,700 came home. Of those 4,700 about 1,700 were combat troops—including a Ranger task force of about 400 who were sent there in late August. And, suddenly, with this bare-bones force and no American armor or mechanized equipment and troops, the mission changed to one of very direct combat.

Who changed the mission? The United Nations? The multinational commander on the ground in Somalia?

Who in the American chain of command concurred? The president? The secretary of state? The secretary of Defense?

From all we've learned since the tragic events of Oct. 3, the senior American military officers—including Chairman of the Joint Chiefs of Staff Gen. Colin Powell—requested tanks and armor-protected troop carriers from Secretary of Defense Les Aspin. There were repeatedly rebuffed. Why?

Rangers are highly mobile because they travel lightly. This means they are lightly armed. Light infantry should never be committed with no means of reinforcement.

Did Maj. Gen. Thomas Montgomery, the senior American officer in Somalia, demand U.N. reinforcements be assembled and placed in reserve?

The Pakistanis and Malaysians had tanks and armored personnel carriers, but it took them over three hours to make the decision to move. They arrived 10 hours after the battle began. Did Montgomery make their ready involvement a prerequisite for using our Rangers? If not, why not?

Now a question for President Clinton. Why is Les Aspin our secretary of Defense? Why is a man who made a career of criticizing the military put in charge of the military? This makes as much sense as appointing an atheist to be a cardinal.

I've spoken to parents and loved ones of other Rangers who were killed or wounded in Mogadishu. I've spoken to several Rangers who served with my son—some of them were wounded. I don't want to suggest that I'm speaking for any of them, but maybe I am.

I certainly think it's reasonable to ask for them and for all concerned Americans that a thorough investigation of this debacle be conducted immediately, and the results be made public. Those who are responsible must be held accountable.

Mr. President, start with Aspin. He is too uncaring and too incompetent to command the most precious resource this nation has. At the very least, Mr. President, seek advice on military affairs from the professionals in uniform who are eager to serve you—not from politicians or people who are experts in manipulating public opinion.

CHALLENGE FOR CLINTON

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. GINGRICH. Mr. Speaker, I would like to suggest that all of my colleagues read the October 8, 1993, editorial by Tony Snow which appeared in the Washington Times.

I believe that this article can help guide us in the debate on what America's role in the post-cold-war world will be. By looking at the lessons learned in Somalia, we can better prepare ourselves for future challenges. What will be our mission? Who will control U.S. troops? How will we train and do humanitarian and multilateral missions? What and where are U.S. vital interests?

These are questions which must be addressed, and I hope that all of my colleagues will take the time to think through these serious issues.

[From the Washington Times, Oct. 8, 1993]

CHALLENGE FOR CLINTON

(By Tony Snow)

Americans grasped the perils of multinationalism this week when gleeful supporters of Somali warlord Mohammed Farrah Aidid dragged the battered remains of a U.S. soldier through the streets of Mogadishu and paraded frightened helicopter pilot Michael Durant before television cameras.

The spectacle in Somalia, horribly reminiscent of the hostage seizure in Tehran 14 years ago, set off two parallel dramas. In

Washington, Congress began pressing the administration to pull troops out of Somalia as soon as possible. Meanwhile, U.N. Secretary General Boutros Boutros-Ghali stepped up his demands that the multinational forces in Mogadishu flush out Gen. Aidid, and make Somalia safe for democracy.

The unpleasant chore of straightening out this mess goes to President Clinton, who plans to tell Congress on Oct. 15 why he wants to keep U.S. troops in Somalia, and for how long. As he does so, he also will define America's role in the post-Cold War world.

The president has tried to finesse these questions in the past by reciting Bush-era prerequisites for using force: (1) a clearly defined military mission; (2) forces adequate to accomplish the mission; and (3) a plan for removing forces upon completion of the mission.

Unfortunately, this list makes sense only when a president has good reasons for sending troops—when he has determined that military force alone can defend vital national interests or national security.

Nearly one year into our involvement in Somalia, nobody has found a compelling reason to risk American lives and blood there. Smith Hempstone, former U.S. ambassador to Kenya and early critic of our involvement in Somalia, puts it this way:

"Somalia was a CNN intervention. I suppose it's to the credit of the American people that they don't like to look at kids with matchstick limbs, glowing eyes, who are about to starve to death. But foreign policy is better made by the head than with the heart."

President Clinton can silence his critics and unite the nation only if he distinguishes between short-term missions and long-term lessons. The short-term mission seems obvious: He needs to mount a furious assault to free American hostages and punish the warlord.

After that, the administration ought to get the forces home and absorb the lessons of Somalia.

First, a president must retain control of his troops. In Somalia, the United States agreed to accept a bit part in a play orchestrated by the United Nations. That won't do: American fighters should answer to American leaders.

He also must stand up to Congress, which has passed nonbinding resolutions that ask him to devise a military strategy by Oct. 15 and a plan by Nov. 15. President Clinton would do well to follow George Bush's example. He should seek congressional support because it's the right thing to do, but he should not let lawmakers micromanage military affairs.

Second, there is no such thing as a humanitarian war: Diplomats love the notion of humanitarian intervention because it transforms war into a nice and reasonable activity. But humanitarian intervention never works, for the simple reason that it involves taking sides in an ongoing dispute. Mr. Hempstone made the point more bluntly last year, when he warned superiors that "If you liked Beirut, you'll love Mogadishu."

Third, pick your fights: Wars will flare all over the world as nations stumble toward democracy, or at least self-rule. We can't serve as the world's nanny or cop and we shouldn't try. One cannot impose democracy with troops: Nations must develop democratic institutions themselves. As a result, U.S. presidents should put soldiers' lives at risk only when necessary to defend vital economic or strategic interests, and use subtler strategies—such as supporting the creation of free markets—to bolster democracy.

Similarly, do not accept responsibility for "nation-building." The Somalian operation spun out of control when U.N. leaders decided that they wanted not only to save lives in Somalia, but also top purify the form of government.

Finally, multilateral actions succeed only when the U.S. leads. Even though U.N. Secretary General Boultros-Ghali seems eager to put on epaulets, the president inevitably will take the heat for the failures of multileralism. As a result, the United States should engage in multilateral actions only when the forces provide cover for U.S. action—and not the other way around.

There is no clean or pleasant way out of Somalia. But in extracting himself from a quagmire he did not create, Bill Clinton at last can prove that he understands the one crucial truth of foreign policy. If he doesn't take charge, goons like Gen. Aideed will.

KEY DOCUMENTS PROVE INNOCENCE OF JOSEPH OCCHIPINTI

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. TRAFICANT. Mr. Speaker, as part of my continuing efforts to bring to light all the facts in the case of former Immigration and Naturalization Service agent Joseph Occhipinti, I submit into the RECORD additional key evidence in this case:

EXHIBIT A—AFFIDAVIT

1. On November 12, 1991 I executed an affidavit where I provided testimony that former Immigration Officer Joseph Occhipinti was convicted on perjurious testimony by Reymundo Tejeda and Nurys Brito. I also say in the affidavit that there had been an organized conspiracy by Jose Liberato and others to frame Mr. Occhipinti on civil rights violations in order to stop his enforcement efforts.

2. I agreed to work in an undercover capacity on behalf of Staten island Borough President Guy Molinari in order to obtain further information of this conspiracy. I agreed to have my conversations tape recorded in order to obtain the necessary evidence to prove Officer Occhipinti's innocence. My investigation during the period of December 1991 until present has uncovered the following evidence:

MARTHA LOZANO

3. Martha Lozano is the owner of Commercial Travel Agency in Manhattan. She was previously arrested by Officer Occhipinti and convicted at Federal Court in 1988 for immigration violations. In a consensually monitored conversation she admitted to me that one of the principal conspirators against Mr. Occhipinti was Simon Diaz, the President of the Federation. In fact, Mr. Diaz hadcontacted her and asked her to falsely testify against Mr. Occhipinti that he had violated her constitutional rights by unlawfully searching her Travel Agency. Ms. Lozano refused to do it saying Mr. Occhipinti had performed his duties lawfully.

PEDRO CASTILLO-REYES

Mr. Castillo-Reyes is the owner of the Universal Travel Agency in Queens, New York. Mr. Castillo-Reyes was previously convicted in Federal Court for offering a bribe to Mr. Occhipinti. I met with Mr. Castillo-Reyes on several occasions where he admitted to me the fact that Mr. Occhipinti was set up; however, he would not reveal the identity of the Co-Conspirators. Mr. Castillo-Reyes did admit that he had received a call from someone asking him to falsely testify against Mr. Occhipinti regarding an illegal search and theft of monies at his travel agency. Mr. Castillo-Reyes refused to identify the person, but did admit he attended some Federation meeting where they discussed setting up Mr. Occhipinti.

REYMUNDO TEJEDA

Reymundo Tejeda is the owner of Uptown Travel Agency in Manhattan. Mr. Tejeda was a government witness at trial against Officer Occhipinti. Mr. Tejeda testified that Officer Occhipinti conducted an illegal search at his travel agency. However, in a couple of consensual monitored conversations, Mr. Tejeda admitted that Mr. Occhipinti didn't do anything wrong. He said he signed the consent form before the search because he was nervous. Mr. Tejeda said that he felt he had been pressured to testify against Mr. Occhipinti by the United States Attorney's Office.

TOMAS GALAN

Mr. Galan is a college professor living in the Bronx. Mr. Galan was present with Mr. Tejeda when the government said Mr. Occhipinti did an illegal search. However, at Mr. Tejeda's travel agency, in a consensually monitored conversation, Mr. Galan admitted that he didn't believe Mr. Occhipinti did anything wrong. Mr. Galan stated he had a taped interview with the United States Attorney's Office regarding the search, but was never called as a government witness. Mr. Galan said if subpoenaed he would testify as to what occurred during the search of Mr. Tejeda's travel agency.

NURYS BRITO

Nurys Brito was the former owner of the Nurys Travel Agency in the Bronx, New York. Mr. Brito was a government witness against Mr. Occhipinti and testified he did conduct an illegal search of her travel agency. However, in a couple of consenually monitored conversations she said she didn't think Mr. Occhipinti did anything wrong. She said Mr. Occhipinti was a gentleman to her, didn't mistreat her and was very professional. She said that she felt pressured to testify against Officer Occhipinti.

JOSE PUELLO

Mr. Puello is a well respected businessman in the Dominican community, who first told me about the conspiracy to frame Officer Occhipinti. The facts are contained in my first affidavit. In a couple of consenually monitored conversations Mr. Puello, who was an executive officer in the Federation, stated that the Federation's Press Release which announced the protest of Project Bodega in 1990 at City Hall was not authorized by the Federation'sExecutive Board. Instead, the whole protest was masterminded by Simon Diaz and Jose Liberato.

I was recently told by a fellow employee, who is related to Jose Liberato that Officer Occhipinti had been framed by Jose Liberato.

I am still conducting my investigation on behalf of Mr. Molinari's office. I have been interviewed by several different FBI agents regarding the Occhipinti case and have agreed to work with the FBI in their investigation. The various consensually monitored tapes were turned over to Mr. Molinari's office for safekeeping.

EXHIBIT B

1. I currently reside * * * and am the owner of * * *.

2. I know Joseph Occhipinti, who was employed by the Immigration and Naturalization Service. I first met Mr. Occhipinti in 1984 when I was employed by Dominicana Airlines. At that time, I caught an individual trying to enter the United States with an illegal stamp in his passport. As a result of this, I contacted the Immigration and Naturalization Service. Mr. Occhipinti was a Special Agent in charge of the investigation.

3. In the end of June or beginning of July 1991, I became aware that Mr. Occhipinti was convicted of various charges in the Federal Court. I became aware of this investigation from listening to reports of television and reading about it in the newspaper. The reports I read indicated that the complaints underlying Mr. Occhipinti's convictions stemmed from searches made at the premises of various merchants belonging to the Federation of Dominican Merchants and Industrialists of New York. My knowledge and experience in the Dominican community immediately led me to become suspicious of these charges. I am aware that many merchants in this organization are involved in various criminal activities including but not limited to money laundering, illegal wire transfers, gambling, drug trafficking and loan sharking. Subsequent to reading about Mr. Occhipinti's conviction, I spoke to Mr. Angel Nunez, an attorney who had been assisting Mr. Occhipinti. I was familiar with Mr. Nunez because he was the attorney who represented Dominicana Airlines while I was employed by them. Mr. Nunez indicated that if I had any knowledge to help Mr. Occhipinti, it would be appreciated.

4. In an effort to assist Mr. Occhipinti and Mr. Nunez, I had a meeting with Mr. Jose Puello. Mr. Puello was a member of the Federation and is an individual who I knew from the time that I was employed by Dominicana Airlines. The conversation between myself and Mr. Puello got around to Mr. Occhipinti and his conviction. Mr. Puello had informed that he was told by Jose Liberato that the allegations against Mr. Occhipinti were generated and fabricated by members of the Federation because Mr. Occhipinti's enforcement activities were disrupting the illegal activities of the Federation. Mr. Puello further stated that when Mr. Occhipinti searched some of Mr. Liberato's establishments, Mr. Liberato got mad and had a meeting with his attorney, Jorge Guthlein. The purpose of this meeting was to seek advice on how to stop Mr. Occhipinti. Mr. Guthlein told Mr. Liberato to get the various merchants, who were the subject of searches conducted by Mr. Occhipinti, to state that money had been stolen as a result of these searches and that permission was not obtained to conduct these searches.

5. On or about November 23, 1991, I had a conversation with an individual named Victor Mena. Mr. Mena is a businessman in Manhattan with whom I have had previous community dealings. At the time of this meeting, Mr. Mena admitted to me that Mr. Liberato had told him that he had falsified the amounts of money involved in the searches and had deliberately fabricated the allegations that Mr. Occhipinti had conducted illegal searches.

6. Later that day, I met with Mr. Angel Nunez, at his home. At that meeting, Mr. Nunez had mentioned to me the names of various complainants who had made accusations against Mr. Occhipinti. I was astonished at some of the names mentioned. For example, Mr. Nunez had told me that one Nurys Brito had made a complaint against Mr. Occhipinti. Mrs. Brito owns a travel agency in New York. I have had business dealings with her in the past. In January 1990, Mrs. Brito had told me that her travel agency had been searched by various Federal agents. She further told me that she had given permission for the search and in fact had personally laid out various files on her desk to facilitate the search. In other words, Mrs. Brito did not say that anything improper took place during the search. Despite this, I learned that she was one of the complainants against Mr. Occhipinti.

7. During the course of my business dealings with various travel agents in the New York area, I became aware of incidents which led me to believe that Mr. Occhipinti was the victim of a frame. In the end of 1990, I had a conversation with a Mr. Reymundo Tejada, who owns a travel agency in New York. Mr. Tejada admitted to me that he had testified in a Grand Jury concerning Mr. Occhipinti. Mr. Tejada indicated that the truth wasthat the Federal Agents had come into his travel agency and that they had searched the agency only after he had consented to the search. On another occasion, Mr. Tejada admitted to me that he lied in a Grand Jury when he testified that he did not give permission for the search.

8. In July 1991, I had a conversation with Mr. Pedro Castillo-Reyes at his travel agency in Queens, New York. During the course of our discussions, Mr. Occhipinti and his conviction became the topic of discussion. Mr. Castillo-Reyes' wife, Sylvia Perdomo, said that various individuals wanted them to testify against Mr. Occhipinti and to falsely state that he stole money and conducted unlawful searches. They stated that they refused to do so because this was not the truth. In fact, they admitted, when Mr. Occhipinti searched their premises, he found money in a garbage can and returned it to them. Coincidently, I was present during the time that the search took place.

9. Furthermore, in the Summer 1991, I had a conversation with a woman by the name of Martha Lozano. Mrs. Lozano is the owner of a travel agency known as Commercial Travel which is located on Broadway in Manhattan. Mrs. Lozano began to talk to me about Mr. Occhipinti. She stated that Mr. Occhipinti had previously arrested her and had treated her with respect. She also stated that she had received a telephone call from an individual who wanted her to lie and say that Mr. Occhipinti had conducted illegal searches at her premises. She refused to do so.

10. I have read this Affidavit consisting of five (5) pages and it is totally correct and accurate. I give this Affidavit of my own free will and have not been coerced or pressured into making this Affidavit. I have also not been given any inducements or promises to make this Affidavit.

TRIBUTE TO DORIS SCHNEIDER HELTON

HON. MIKE PARKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. PARKER. Mr. Speaker, I rise today to honor a talented artist and educator, Doris Schneider Helton, formerly of William Carey College, in Hattiesburg, MS.

Ms. Helton will be recognized as William Cary College's Distinguished Alumnus for 1993 at the college's homecoming activities on November 13.

She is a 1964 William Carey graduate, earning her bachelor of arts in theater, and currently is associate professor and graphics/scenic designer in the department of theatre at North Carolina Central University in Durham, NC. She recently was the recipient of a Fullbright-Hayes fellowship to study the cultural arts of Trinidad and Jamaica at the University of the West Indies.

She holds a master's of product design from North Carolina State University and a master's of arts from the University of Southern Mississippi. She completed additional studies at Banff School of Fine Arts, Canada; Duke University; Carrboro Art School; and North Carolina State University. She has won first and second place in the Southeastern graphic design competition, as well as winning the prestigious Extraordinary Service Award at NCCU. She has published several articles including two for the most widely circulated publication in technical theater, "Theatre Crafts International."

Ms. Helton's directing and designing career began at William Carey, where she directed 3 main stage productions and designed 20 shows. She has designed and painted 33 main stage productions at NCCU and has designed for Durham Savoyards Inc. and Duke University. She also has directed a number of productions at NCCU and elsewhere, including Meredith College and Durham Savoyards.

William Carey, the school from which I obtained my undergraduate degree, is a private church-related liberal arts college with an enrollment of about 2,000 students at its 3 campuses in Mississippi and 1 campus in New Orleans, LA. So many former students have made us proud, but Doris Schneider Helton deserves special recognition for her positive influence and inspirational guidance to young adults, as an outstanding Mississippian and a role model for the many people touched by her life and work.

Mr. Speaker, at this time, I ask that my colleagues join me in saluting Doris Schneider Helton for her many outstanding achievements.

INTRODUCTION OF THE CONGRESSIONAL HEALTH AND SAFETY ACT OF 1993

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. FAWELL. Mr. Speaker, today I am introducing, along with Representative GOODLING, the Congressional Safety and Health Act of 1993. The bill continues our efforts to ensure that congressional employees are covered by the same laws and regulations which apply to other employees and to see that Members of Congress and other congressional employers are held accountable under the same laws that are imposed on other employers.

The Congressional Safety and Health Act would subject Congress to regulations and

penalties which are applied to private-sector employers by the Occupational Safety and Health Act [OSHAct]. While the general principle that Congress should not be exempt from the laws it imposes on others is reason enough to pass this legislation, in this case there is also ample evidence of the need for corrective legislation. Last year, at the request of members of the Education and Labor Committee, the General Accounting Office conducted a single round of inspections of 25 worksites under the jurisdiction of five House offices and legislative agencies. The GAO found 140 violations of OSHA standards, including over 50 violations which were described as "serious." Surely, the argument cannot be made that covering the House of Representatives and other legislative branch agencies under the OSHAct is not necessary because it is already in compliance with what is required by that law.

It has been reported that the OSHAct might be excluded from the list of laws to be applied to Congress as part of congressional reform efforts because compliance would be too difficult or too expensive. But to exclude the OSHAct would be a major retreat from the principle that Congress should live by the same laws and regulations that it imposes on other employers, OSHA requirements are a substantial restriction and cost item for every employer who is covered by the OSHAct. Whether those restrictions and costs are justified or not, surely there is nothing unique about congressional workplaces which would prevent us from complying with the same requirements as private sector offices.

The Congressional Safety and Health Act would require Members of Congress and other employing authorities to comply with the standards and regulations issued by OSHA. However, as the OSHAct is enforced through the Department of Labor, applying precisely the same enforcement mechanisms to Congress would present constitutional concerns. For that reason, a slightly different enforcement process is required, one that relies upon congressionally appointed persons to enforce the requirements under the OSHAct. The substance of what would be required, and the penalties which members and other employers within the legislative branch would face if those requirements were not met, however, would be the same as those which apply where OSHA enforces the law directly.

Mr. Speaker, the Congressional Safety and Health Act provides meaningful congressional coverage under the OSHAct, while addressing constitutional concerns regarding executive branch enforcement against the Congress. This legislation provides one more step in the long process of bringing Congress under the workplace laws of the country. I look forward to the passage of this legislation.

MARY T. LYNCH REMEMBERED

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mrs. MALONEY. Mr. Speaker, I am deeply saddened to rise today to bring to the attention of my colleagues the sad passing of Mary T. Lynch. Her kindness and generosity will be deeply missed by all those whose lives she touched, but particularly by her husband, John; her daughter, Darlene; her granddaughter, Jennifer; her sister Caroline Daniello; and her four nephews and three nieces. I hope my colleagues will join with me in expressing our deepest sympathies to this family on their tragic loss.

COMMENDING RENALDO TURNBULL

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. DE LUGO. Mr. Speaker, there is a new defensive star in professional football this season: Renaldo Turnbull, who was named September's NFL defensive player of the month, and as a linebacker with the New Orleans Saints has been a key to the team's success this year.

In his first four games, Renaldo Turnbull turned in 21 tackles, four forced fumbles, and seven sacks, the highest in the league.

In the Saints' game against Atlanta, with just 30 seconds remaining, Turnbull stripped the ball, recovered the fumble, and set up a 44-yard field goal that broke a 31–31 tie and won the game.

Turnbull says he has set high standards for himself: He wants to be recognized as one of the best linebackers in the NFL. And at the rate he is going he may be.

Renaldo Turnbull sets an excellent example for our youth by proving that skill, hard work, determination, and settling for nothing less than excellence really do pay off.

The people of the district I represent are particularly proud of this fine young football player, because Renaldo Turnbull is from my home, the Virgin Islands.

NOW THE GOOD NEWS ON HEALTH CARE

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. GINGRICH. Mr. Speaker, I ask you to join me today in recognizing Dominion Resources, Inc. of Richmond, Virginia as an innovator and leader in private sector health care reform. As national health care expenditures continue to escalate, health care costs at Dominion Resources have risen less than 1 percent. Furthermore, in 1992 Dominion Resources under-ran their health care budget by 31 percent resulting in a savings of $67,000. These savings were then passed on to employees who conformed to healthy lifestyles.

As a health care innovator Dominion Resources has identified health risk factors and offered employees cash as an incentive to achieve a low risk rating as defined by insurance industry standards. Additionally, Dominion Resources has created an interest bearing savings program to provide employees with a mechanism to pay for routine medical expenses. The philosophy guiding the innovations at Dominion Resources is that medical benefits should be treated as a form of compensation, and employees who contribute to cutting the medical costs of the company are rewarded.

As we prepare to begin the debate to determine the best course of action for health care reform in our country, we should recognize that the innovative and creative energy of companies such as Dominion Resources are the trademarks of American civilization. Furthermore, we as Americans should carefully consider any health care reform legislation that might stifle these principles.

[From the Manager's Journal, Sept. 20, 1993]

NOW THE GOOD NEWS ON HEALTH CARE

(BY KEN DAVIS)

For several years the media have reported one horror story after another about the cost and delivery of health care. Now, for something completely different:

Since 1989, my company's health care costs have risen less than 1% a year. During that time, we have improved and expanded our medical benefits program. In 1992, we underran our health-care budget by 31%. We Shared these savings with our employees in May by distributing checks totalling more than $67,000.

We have expanded coverage for preventive and diagnostic procedures. We have established a cash incentive program to reward our employees who adopt and maintain healthy lifestyles. We have taken a number of steps to help our employees become informed and empowered consumers of medical services.

We have restructured our benefits programs to make it easier for employees to custom tailor a package of benefits that best meets their needs for the least cost. And we have preserved for employees the freedom to make their own choices when selecting a doctor, hospital or other provider of medical care.

There are three reasons for the results we have achieved. First, we have focussed on health maintenance and prevention. Second, we have treated health insurance like true insurance. Third, we have begun to treat company-provided benefits like a form of compensation, which they are, and less like a program of entitlements.

In a typical working-age population, about one-third of medical costs arise from five familiar risk factors: weight, blood pressure, cholesterol, smoking and seatbelt use. To a large degree, these risk factors can be controlled by personal behavior. We try to encourage our employees and their families to focus on, and act on, these issues without delay. We do this by offering them wellness incentives of up to $600 a year if their five risk factors can be rates as "low risk" using traditional insurance-industry rating tables.

More than 60% of our employees participate in our voluntary wellness program. They appreciate our concern for their health. And they appreciate our concern for their privacy: medical data used to assess risk, such as blood pressure readings, are kept strictly confidential by the outside contractors who administer the program. In addition, no incentive payments are withheld from individuals because of any risk-factor conditions beyond their control.

In tackling the more fundamental issues of the cost of insurance, we have gone back to

basics. Most health "insurance" programs use administrative systems borrowed from the property and casualty insurance industry to run entitlement programs that pay for routine medical expenditures. Consider auto insurance as a common example of property and casualty insurance. If it were run like most health programs, our company would pay for things like spark plugs and motor oil, and the price of these items would skyrocket. Uninsured individuals would not be able to afford good car care. And employers would be working with their carriers to negotiate volume discounts with networks of preferred garages.

It is more cost-effective for insurance companies to pay a small number of large claims than to pay a large number of small claims. If an insurer receives many small claims, it adds up to mountains of paperwork—and that take a huge staff, which costs a lot of money. The payer must also confirm that the service rendered was covered and that the charge billed was appropriate. Each of these necessary steps adds administrative expenses.

However, if you have a few large claims, you don't need the extra paperwork or the staff. Thus, at my company, we focus coverage on the significant expenses that can logically and efficiently be reimbursed by insurance. By raising plan deductibles, we have greatly reduced the premiums that our company and employees have to pay. We offer our employees a medical insurance plan that includes a deductible of $1,500 a year for individual coverage and $3,000 a year for family coverage. Seventy-five percent of our employees have selected this high deductible, low premium plan. I have elected to cover myself and my family with this plan and pay about $110 a month for our coverage.

The significant money saved on premiums is available to me and other employees to pay for routine medical expenses through other more direct and efficient means, such as by cash, check or credit card, if small claims are paid out of pocket by the employee, the number of claims plummets and the insuree becomes a better risk for the insurer. In fact, here at Dominion, claims filed per employee came down to 10 in 1992 from 19 in 1991. Since this means far less work in administering claims, we're renegotiating next year's administrative fee with Blue Cross.

To encourage direct payment of small medical bills, my company has established payroll deduction savings accounts at a local bank for employees to accumulate money that otherwise would be spent on medical premiums. These medical savings accounts pay interest, and they accumulate funds for participating employees on an after tax, fully vested basis. Funds not spent in a current year are carried forward to later years for employees on a "use it or keep it" basis.

The combination of high insurance deductibles and medical savings accounts controls the cost and improves the quality of our health care by eliminating the wasteful "use it or lose it" incentives created by traditional medical plans that pay for the most routine medical services. By focusing our insurance coverage on more significant cases, my company has greatly reduced the need to manage its health care of our employees or to intervene in the relationships they have with their doctors.

The final leg of our successful health plan package is our treatment of medical benefits as a form of compensation. Compensation should be based on the contribution that an employee makes to the success of his company. Our wellness incentive payments are based on the cost-control contributions that employees make when they responsibly manage the risk factors that affect their health. And the refund payments we made this year when we came in under our health-care budget rewarded employees for their prudent consumption of medical services.

We even pay some extra money for medical benefits to employees who earn our highest appraisal rating for their superior job performance and their contribution to the success of our company. And to stress the point that benefits are compensation, we provide Total Compensation Statements to employees each year to show how much they are paid in company expenditures for their benefits.

Reform of health benefits can be a win-win situation for everybody concerned. It has been for us.

INTRODUCTION OF LEGISLATION TO CREATE A HEALTH CARE REFORM TRUST FUND

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. RICHARDSON. Mr. Speaker, I am introducing legislation today to create a health care reform trust fund to carefully monitor health care spending and revenues during the implementation of reform. We must try to reach universal coverage and not just universal access to insurance to try to reduce health care costs. I believe this is a necessary goal and the only true way to contain health care costs in the long run. However, as we work to attain that goal, we must also keep a careful eye on the impact of health care reform on the Federal budget in the short run.

Mr. Speaker, it appears that we will be depending on reduced growth in Medicare and Medicaid to increase coverage to the uninsured. However, too much reliance on reductions in Medicare spending could backfire because Medicare spending is already growing at a slower per-capita rate of spending than overall per-capita health spending. Furthermore, providers in rural areas are having difficulty now meeting their total costs with the reimbursements provided by Medicare. Proceeding sensibly with health care reform will help rural providers once health care reform is fully enacted but we certainly do not want to squeeze them any more on Medicare reimbursements between now and then.

With the Federal deficit totaling $290 billion dollars last year, we must face the fact that the Federal Government has never been able to accurately predict the costs of a new health program. One of the expressed goals of the administration's health care plan is to eliminate cost shifting while reducing overall health care costs. Yet, unless we are able to bring private health costs more in line with the costs of our public health programs, we will not be able to eliminate cost shifting. With the cuts in Medicare and Medicaid spending that are being considered to help finance health care reform, cost shifting is encouraged. My legislation will help enhance accountability in health care costs to try to prevent cost shifting from occuring.

Under my proposed legislation, any savings in Federal health spending or any tax increases enacted as part of health care reform will go into a health care trust fund. Outlays from that trust fund can only be used for approved spending under an enacted health care reform bill—nothing else.

Mr. Speaker, I believe that our chances for passing significant and lasting health care reform are improved by the creation of a health care reform trust fund. The American public will have greater confidence that tax revenues and spending cuts will definitely be dedicated to health care reform. At the same time, we can carefully monitor new Government spending and make sure that we do not add to the terrible burden created by our Federal deficit. We are walking on a precarious fiscal tightrope with the financing of health care reform. I believe this legislation gives us a needed safety net to rely on.

H.R. —

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

SECTION 1. HEALTH REFORM TRUST FUND.

(a) ESTABLISHMENT.—There is established the Health Care Reform Trust Fund (hereinafter referred to as the "Fund") for the purposes of guaranteeing that the net deficit reduction required by the Health Security Act is fully achieved.

(b) MONEYS IN THE FUND.—The Fund shall consist only of amounts equal to the net deficit reduction, calculated pursuant to the procedures set forth in subsection (c), that is estimated to result from the Health Security Act. Such amounts shall be transferred to the Fund as specified in subsection (c).

(c) TRANSFER OF MONEYS.—Within 10 days of enactment of the Health Security Act—

(1) the Director of the Office of Management and Budget shall determine the sum of the net deficit reduction that results from the enactment of the Health Security Act; and

(2) there shall be transferred from the general fund to the Fund an amount equal to the sum determined in paragraph (1).

(d) USE OF MONEYS.—Notwithstanding any other provision of law, the amounts in the Fund shall be used exclusively for health care reform.

(e) GRH EXCLUSION.—Amounts in the Fund, as determined by the Director of the Office of Management and Budget, that result from the net total of direct spending and receipts provisions calculated according to the provisions of section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be excluded from, and shall not be counted for purposes of, the totals under section 252 and sections 254(d)(3) and 254(g)(3) of that Act.

(f) PRESIDENT'S BUDGET.—Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof:

"(27) information about, and a separate statement of amounts in, the Health Care Reform Trust Fund.".

SALUTE TO THE ANTI-DEFAMATION LEAGUE

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. GALLEGLY. Mr. Speaker, I rise today to honor the Ventura County members of the

Anti-Defamation League of B'nai B'rith as they hold their 14th annual ADL appeal, and for their ceaseless efforts to expose and defeat hate.

The Anti-Defamation League continues to play a vital role in our national fight against prejudice and discrimination. It is reprehensible that anti-Semitism remains a powerful force for evil in our Nation, and I am especially saddened that we have also seen a resurgence of hate crimes and religious desecration of places of worship, homes, and businesses in Ventura County as well.

As Ventura County's congressman, I am especially pleased to salute the 800 members of our four B'nai B'rith chapters—Camarillo B'nai B'rith unit, Camarillo B'nai B'rith women Channel Islands B'nai B'rith unit, and Haverim B'nai B'rith couples unit—who are leading the fight against discrimination in our own community.

I am also pleased to recognize Dr. Frank Eiklor, the president of Shalom International, and Dr. Irving Cheslaw, past president and trustee of the Haverim B'nai B'rith couples unit, who are receiving Distinguished Community Service Awards.

And finally, Mr. Speaker, I am especially pleased to recognize Joseph Ellenbogen of Camarillo, who not only is serving as the ADL reception chair, but who also just concluded his first session as a member of the California Senior Legislature.

Mr. Speaker, I ask my colleagues to join me in honoring the members of B'nai B'rith, in Ventura County and throughout the Nation, for their vigilance and their leadership in fighting discrimination.

B'NAI B'RITH'S 150 YEARS OF SERVICE

HON. WILLIAM P. BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. BAKER of California. Mr. Speaker, I rise today to offer my most sincere congratulations to the members of B'nai B'rith in celebrating their 150 years of service.

B'nai B'rith, the oldest philanthropic organization in North America, is celebrating its 150th anniversary on November 29, 1993.

I especially offer my congratulations to members of local B'nai B'rith Lodge 1756 of Contra Costa County.

B'nai B'rith provides various community services such as feeding the homeless, providing services to senior citizens, and other charitable activities.

I thank the B'nai B'rith for the services it has provided and extend my heartfelt congratulations to its members.

H.R. 3465, WETLANDS PROTECTION AND MANAGEMENT ACT, NOVEMBER 8, 1993

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. DE LA GARZA. Mr. Speaker, over the past 4 years, it has become clear that Federal wetlands policy has been neither fair to landowners nor effective in protecting wetlands.

As chairman of the Committee on Agriculture, I am well aware of the frustrations experienced by farmers, ranchers, and landowners across the country with current Federal wetlands rules. It is clear to me that any true people-oriented reform of Federal wetlands policy must be sensitive to the productive needs of our Nation's agricultural landowners.

This summer the Clinton administration proposed a comprehensive package of administrative and legislative reforms designed to end the confusion, contradictions, and many of the controversies that have engulfed Federal wetlands policy. While I have concerns about some of its provisions, I commend the administration for making a serious attempt at developing a more fair, flexible, and effective approach to wetlands policy.

The 103d Congress now has the opportunity to consider and refine the administration's legislative proposal in conjunction with the reauthorization of the Clean Water Act.

I believe our Nation's agricultural producers and the Committee on Agriculture must be a part of that debate. That is why I have joined Mr. STUDDS of Massachusetts, the distinguished chairman of the Committee on Merchant Marine and Fisheries, as an original cosponsor of H.R. 3465, the Wetlands Protection and Management Act.

H.R. 3465 embodies in legislative form much of the administration's original wetlands policy proposal, including the authority for the U.S. Department of Agriculture's Soil Conservation Service [SCS] to delineate wetlands on agricultural lands.

H.R. 3465 also includes, at my suggestion, language to better address various agriculture-related concerns. SCS is given authority to carry out the identification and delineation of wetlands on nonagricultural lands that are contiguous or contained within agricultural lands if this will help streamline the permitting process. It includes a more comprehensive list of what is to be defined as agricultural lands and normal farming, silviculture, and ranching activities exempted from the section 404 permit process.

The bill also makes clear that a participation in set-aside, diverted acres or similar USDA programs does not constitute abandonment of prior converted cropland.

With the inclusion of these modifications, I have agreed to cosponsor H.R. 3465 so that this legislation can serve as a starting point in the legislative deliberations here in the House. The measure also provides the Committee on Agriculture with an opportunity to address the confusion and contradictions over the regulation of wetlands.

My cosponsorship does not mean I support every provision in the bill as written. Indeed, while it represents a substantial improvement over the current situation, I strongly believe further reforms are needed to address agricultural and landowner concerns.

However, the time has come for Congress to work in a cooperative spirit to strike a more reasonable balance between landowner rights and environmental protection. I believe H.R. 3465 is a reasonable point both to begin this debate and to serve as a legislative vehicle for true reform of Federal wetlands policy.

SOMEBODY BETTER READ THE FINE PRINT

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. GINGRICH. Mr. Speaker, I would like to call your attention to an article in the Los Angeles Times written by James P. Pinkerton. Mr. Pinkerton is the John Locke Foundation fellow at the Manhattan Institute in Washington, DC. I believe Mr. Pinkerton points out some fundamental problems that exist in the Clinton's proposed health care solution.

Mr. Speaker and fellow colleagues, I am concerned that many Americans have, as Mr. Pinkerton points out, failed to read the fine print in the Clinton health care plan. Further, the administration has attempted to coax the American public into believing that a massive health care bureaucracy, based here in Washington, will offer each American security, simplicity, and savings. At this point I feel that a simple question must be asked, and that question is when, in the history of bureaucracies, have the citizens of this country seen a large bureaucratic organization achieve simplicity and savings? I would argue that the answer to this question, of whether a large bureaucracy has achieved simplicity and savings, is never. Additionally, Mr. Pinkerton looks to Theodore Lovi to provide some insight into what we can expect from the bureaucracy of the Clinton health care board. Mr. Lovi asserts in his writings that as government grows bigger and bigger representative government will fade away and give way to rule by elite Washington insiders.

Now we as Americans should ask ourselves, is President Clinton's health bureaucracy what we really want? Should we as Americans relinquish our freedom of choice over health care decisions to some appointed board in Washington. Furthermore, does history provide us with examples of bureaucratic organizations, such as the Federal Drug Administration, offering simplicity and savings. I believe that the answer to these questions is self-evident—the answer is no.

Bureaucracy is not the answer, it is the problem. Americans deserve health care reform that respects freedom of choice, free enterprise and individual responsibility. Mr. Speaker, fellow colleagues and fellow Americans, as we begin the debate about which health care plan is the best for our country I ask each of you to read the fine print and the reject proposals that offer cloudy rhetoric and government intervention as a solution to our current health care problems.

SOMEBODY BETTER READ THE FINE PRINT

(By James P. Pinkerton)

In what bids to be the defining event of his presidency, Bill Clinton laid out his "Big Offer" to the American people last night. Presidents who make sweeping change are remembered, for better or worse. Think of Franklin Roosevelt's New Deal, Lyndon Johnson's Great Society, Reaganomics.

Clinton's offer sounds good. We'll hear the litany of buzzwords over and over again: security, simplicity, savings. "By 1998, everyone is paying less" for health care, senior adviser Ira Magaziner predicted last week. This

week, the Clintonians sweetened the pot further, moving up to 1997 the date when we all start getting more health care for less money.

If Clinton is to be another F.D.R., this had better work. But the biggest challenge he faces is the deep public skepticism that the government really is here to help us.

Theodore Lowi saw it coming. In 1969, he wrote "The End of Liberalism," a far-reaching critique of the post-New Deal welfare state. Lowi, a former president of the American Political Science Assn. now at Cornell, is no conservative. He would describe himself as committed to real democracy, which he sees as threatened by the delegation of legitimate authority to the Iron Triangle of bureaucrats, lobbyists and special interests.

As government grows bigger and bigger, Lowi argued, representative government will inevitably give way to the undemocratic rule of insiders. Think about it. How many members of Congress actually read the 1,000-page bricks they vote for? They can barely lift them, let alone comprehend them. So elected officials turn to unelected officials to explain, interpret and implement the law with thousands more pages of legalese. It's like the Marx Brothers movie "A Day at the Races": you need a code book to translate the code book.

Lowi coined the phrase "interest-group liberalism," to describe the bargaining among the Washington elites that has characterized American politics since the 1930s. What we will get, Lowi prophesied, is "a crisis of public authority" and "atrophy of institutions of popular control."

Assuming the Clinton plan passes, consider just some of the thousands of to-be-determined questions that lawyers and logrollers will resolve in the shadowland between K Street and Capitol Hill:

The famous "one-page form." The Clintonians allege they will reduce patient paperwork to a single page. But if you don't ask questions, how do you keep people from ripping off the system? The Reaganites simplified banking regulation so much that the S&Ls make off with 12 zeros worth of our money. So, will we all have a chance to play Charles Keating? Unlikely. The EZ form is the tip of the red-tape iceberg. The Administration wants another $2 billion to hire auditors and overseers to keep track of our pills and proctoscopies.

Medical specialities. "Regional review boards" will allocate slots in medical schools so that we get the politically correct ratio of general practitioners to specialists. Stay tuned for the story about how Senate Appropriations Committee Chairman Robert Byrd and the multiculturalists have cut the ultimate deal: affirmative action and quotas enabling all West Virginians to attend medical school, so long as they promise not to be plastic surgeons.

The National Health Board. This new regulatory agency, its members appointed by the President, will have responsibility for making the whole trillion-dollar operation work. NHB is an acronym to remember; it will be in charge of everything from baseline budgets for the health alliances to providing technical assistance to help dawdling states get with the new program.

Magaziner is a smart guy. But even the most brilliant have their limitations. One is reminded of the scene in the 1981 film "Body Heat," when crook Mickey Rourke discusses murder with crooked lawyer William Hurt. In this business, Rourke advises Hurt, there are 50 ways you can foul up. If you're a genius, you can think of 25. And you, Rourke tells Hurt, ain't no genius. Magaziner is trying hard, but it's hard to see how he will bat more than .500. That's superb in baseball, but not good enough when our lives are at stake.

If popular sovereignty is to mean anything, then sovereign power has to be understandable to the populace. Lowi's book is a restatement of the truism: The devil is in the details. A quarter-century ago, he warned that the details were drowning us. Today, it looks as if democracy is about to take another dunking.

LEGISLATION TO BAN DUMPING OF LOW-LEVEL RADIOACTIVE WASTES

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. ORTIZ. Mr. Speaker, I rise in strong support of the House concurrent resolution introduced by Mr. WELDON calling for the United States to amend the London Convention to ban the ocean dumping of low-level radioactive wastes. This week, over 40 countries are meeting to examine and amend the convention. One of the major issues to be discussed is the institution of a ban on the ocean dumping of low-level nuclear wastes.

The dumping of high-level wastes was banned in the original London Convention agreements in 1972. This was followed by a voluntary moratorium on ocean dumping of low-level wastes in 1983. Violations of this moratorium by the former Soviet Union have recently been exposed which show that the former Soviet Union routinely dumped large amounts of high- and low-level wastes in the Arctic Ocean and other marine areas. Additionally, the Russian Government recently dumped 900 tons of liquid low-level wastes into the Sea of Japan in the face of strong opposition from the Japanese Government.

The administration has taken a formal position in support of adding a permanent ban on the ocean dumping of low-level nuclear wastes to the London Convention. The U.S. will join over 20 other countries in the effort to assure that this is accomplished. Adoption of this resolution will send a clear message that the Congress supports the administration and it will strengthen their position as deliberations take place.

Mr. Speaker, I want to commend Mr. WELDON for his leadership in this issue. I believe that it is important that the House take up this matter, and I urge the Members' support.

BOB HAMMERLE AND MONICA FOSTER

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. JACOBS. Mr. Speaker, there is a husband and wife lawyer team in Indianapolis of historic proportions.

Bob Hammerle and Monica Foster are, to say the least, a headache to the average prosecutor. They don't quite have the batting average of Perry Mason. But, of course, there is a fundamental difference. They exist, they are not fiction. And all of those who love liberty should celebrate this kind of talent which is available to every citizen who might be charged with a crime, and especially those who turn out to be innocent.

I insert in the RECORD the article by George Stuteville which appeared in the Indianapolis Star on October 31, 1993.

HOOSIER LAWYER INSPIRED AND READY FOR HER FIRST CASE AT SUPREME COURT

(By George Stuteville)

WASHINGTON.—Truth would win without fail on every Perry Mason episode, and Monica Foster would watch and dream of the day when she would grow up and become a lawyer, too.

After Foster became an attorney 10 years ago, her dream shifted to the day when she might argue a case before the United States Supreme Court.

That day will be Monday. And it won't involve a nice, neat Perry Mason-style case of innocent defendant set free.

Foster will attempt to convince a majority of the court that a judge in 1981 improperly condemned an Evansville man to death after a Brown County jury recommended against the execution.

Thomas N. Schiro confessed to the Feb. 4, 1981, rape, murder and mutilation of Laura Jane Luebbehusen of Evansville.

Court records show that Schiro, who was serving a reduced sentence in a halfway house for a robbery, got inside Luebbehusen's house by telling her his car had broken down and asking to use her phone. After raping her over a period of hours, he smashed her head with a vodka bottle and a clothing iron.

"This was a horrible crime," Foster conceded. But she took the case, she explained, because she also saw serious flaws in Schiro's sentencing.

Her main point: The jury did not issue guilty verdicts on separate murder charges that would have automatically made a death penalty case. The judge, she said, sentenced Schiro to die for crimes he was not found guilty of committing.

Further, she said, the jury took only 61 minutes to recommended against executing Schiro because his violence was caused by profound mental illness.

CONSUMED BY CASE

Since May, the grisly murder, the complicated legal arguments, and the pressure of going before the nation's highest court have consumed the 33-year-old public defender.

"I worked on this and little else for the last four months. There have been many nights when I have left the office when the sun was coming up in the morning."

In some ways, she has been preparing for the case most of her career.

After graduating in 1983 from Indiana University School of Law at Indianapolis, Foster wanted to work on death penalty cases. She soon moved to that specialty. Her clients included a Gary teen-ager, Paula Cooper, whose death sentence eventually was commuted to 60 years after an international outcry. Even relatives of Cooper's victim supported the lesser sentence.

In a gritty New York accent that lingers from her childhood in Buffalo, Foster makes no apologies for her choice of clientele. She has asked the Supreme Court to review 10 to 12 other cases.

"The people I represent are the people who have fallen through the nets. It is worth it to

come in and help those people understand why it is they committed horrible crimes, to show these people some empathy, and in many instances it is empathy they have never received from anyone in their entire life including when they were pure and innocent as children."

SCOUTING THE COURT

To prepare, she has traveled across the country to present her arguments to top constitutional law experts and has set up mock court situations to simulate Monday's panel.

Last month, she sat in on a Supreme Court session to familiarize herself with the surroundings and the intimidating protocol inside the ornate white marble building. As ready as she believes she is, she still worries that one of the justices will ask her a question she cannot answer.

"If you think of it, you've got nine justices asking one person questions and even if I went to Harvard—which I didn't—and even if I graduated magna cum laude—which I didn't—and even if I had law clerks to help me—which I don't—I don't think I could think of all the questions they could ask."

Likewise facing his first Supreme Court presentation is Arend Abel, who will represent the Indiana attorney general's office. Abel, also 33, a 1986 graduate of Indiana School of Law at Bloomington, will be assisted by Matthew Gutwein and Wayne Uhl.

Abel noted that appeals courts, including the Indiana Supreme Court and the U.S. District Court for the Northern District, have consistently upheld the state since 1983.

"I am honored to do this and I am looking forward to it," he said. "On the other hand, there is no joy, no pleasure in it because it is tragic for the victims, and each step of the way reminds the victims of this horrible thing."

Abel, who was raised in Union City, said he thought it would be tragic if the Supreme Court should reverse the findings of the lower courts and set aside the death sentence.

Any ruling is months away. In the meantime, each side will be heard at the summit of the justice system. As daunting as the experience may be, Foster said, she looks forward to the beauty of the justice system and already feels the encouragement of the justices.

"When I went to Washington to prepare, I saw an African-American and two women on that court. It was affirming. I know this court is very conservative, but I feel very good because I know we've got some representation across gender and race lines. I can't help but know that is a good thing in the grand scheme of things. I had no role models when I was growing up. Now we have two of them. It will make a difference when I stand there. This is the show," Foster said.

And it's not Perry Mason.

RESOLUTION TO RECOGNIZE AND ENCOURAGE THE CONVENING OF A NATIONAL SILVER HAIRED CONGRESS

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. GEPHARDT. Mr. Speaker, I rise today to introduce a resolution recognizing and encouraging the convening of a National Silver Haired Congress, and I invite my colleagues to join me in this recognition.

In 1973, Missouri senior citizens convened the first Silver Haired Legislature. The purpose was to provide a statewide forum for nonpartisan evaluation of grassroots solutions to concerns and issues shared by many senior Americans. This forum was patterned after the Missouri Legislature with upper and lower chambers. Senior citizens—60 years and older—were elected by their peers from across the State. Since that time Alabama, Arkansas, California, Florida, Georgia, Hawaii, Indiana, Iowa, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, North Dakota, Ohio, Oklahoma, Rhode Island, Texas, Utah, Virginia, West Virginia, and Wyoming have c:ganized Silver haired Legislatures generally patterned after their State legislative bodies. More than 2,500 senior representatives work on behalf of their peers from their respective States. This highly successful forum has developed as an effective resource for public policymakers. Important legislation in areas of consumer protection, homestead tax exemptions, health care, long-term care, insurance, housing, and crime prevention have been passed as a result of this responsible, dedicated advocacy.

The National Council of Silver haired Legislators continues to grow and expand in other States by serving as a forum to advocate on important issues and concerns of older Americans through grassroots, nonpartisan participation.

The success at the State level revealed the need for a national forum patterned after the U.S. Congress to address broader senior issues.

I encourage you to help these vigorous older Americans use the knowledge and experience of senior citizens fro responsible involvement in the Federal legislative process. They will focus, not only on concerns of older Americans, but on those of their children, grandchildren and the environment.

The National Silver Haired Congress will be unique in its approach to providing solutions. Its representatives will convene and serve without cost to taxpayers.

I urge your support for this resolution to recognize and encourage a National Silver Haired Congress.

DUBROVNIK: DECENT PEOPLE WHO STAND ON PRINCIPLE

HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Ms. MOLINARI. Mr. Speaker, the ancient city of Dubrovnik, Croatia, sustained heavy damage and destruction during the 1991–92 artillery barrage launched by the Serbs against the old walled city. Now, the people of Dubrovnik with the help of others around the world, including the Rebuild Dubrovnik Fund based in Washington, DC, are restoring their historic city and rebuilding their personal lives.

The American Society of Travel Agents joined with Atlas Travel Agency of Dubrovnik to found the Rebuild Dubrovnik Fund a year ago. I and several other Members of Congress serve on the fund's honorary advisory board. Through this work and two visits to Croatia in the last 2 years, I am aware of the valiant effort of the citizens of this jewel of the Adriatic to repair the damage and restore their tourist-based economy.

In the October 25, 1993, issue of Travel Agent magazine, publisher Richard P. Friese wrote eloquently of his memories of Dubrovnik and his respect for Dubrovnik as "a symbol to protect and restore things in a world where destruction and decay run rampant."

I commend the editorial to my colleagues.

[From Travel Agent, Oct. 25, 1993]

DUBROVNIK

(By Richard P. Friese)

Last month in St. Louis, while addressing a small breakfast group, Lady Margaret Thatcher poignantly recalled her visit to Dubrovnik in 1980. Slipping back in time, she expressed her love for the ancient city, which was severely damaged by heavy artillery shelling in 1991. That bombardment resulted from the long-standing ethnic and nationalistic tensions that exist in the region—tensions which erupted when Serbs in Croatia rebelled against the new Croatian government.

Referring to Dubrovnik as the "Jewel of the Adriatic," Mrs. Thatcher expressed the need to preserve world culture and called for international assistance to rebuild the old city.

While it's been over 20 years since I visited Dubrovnik, it is nonetheless difficult to imagine the splendor of one of the world's most exquisite cultural monuments now desecrated by the pockmarks of war and turbulence. As Mrs. Thatcher spoke, I recalled my first impressions of the old city. Indeed, to enter Dubrovnik was to enter into a time warp—a world of make-believe out of the fairy tale lands of Hans Christian Andersen. Even the brilliant but irreverent George Bernard Shaw wrote that those in search of an earthy paradise should travel to Dubrovnik.

Located on the southern Adriatic in the Republic of Croatia, Dubrovnik is without question the most picturesque city along the Dalmation Coast. It was founded in the seventh century by Roman refugees fleeing Epidaurus, but its basic city plan dates from 1292. Built on a promontory jutting out into the sea, Dubrovnik's medieval fortifications rise directly from the water's edge.

A massive round tower dominates the city on the landward side. Inside the huge walls surrounding Dubrovnik, the beauty of the old world is reflected in its splendid architecture, terra-cotta tiled roofs and the cultural masterpieces that line the city's narrow but harmonious streets. There are museums, galleries and countless little houses decorated in century-old vines.

DEALING WITH ADVERSITY

Today, Dubrovnik's churches remain open to visitors, but as a result of the bombardment the city's museums are closed and their treasures have been hidden for an indefinite period of time. However, in an economy that depends on tourism for 80 percent of its income, the people of Dubrovnik are suffering from a severe decline in visitors and from high unemployment. Still, they are progressive and have an impressive history of successfully dealing with adversity.

Durbrovnik survived a massive earthquake in 1667 that destroyed three-quarters of its buildings and killed nearly two-thirds of the population. The city has maintained its independence by acknowledging the sovereignty of state after state—first the Byzantine Empire, then Venice and Hungary, and then the

Ottoman Turks. Napoleon occupied the city in 1806.

On the other hand, almost extraordinarily, by 1347 Dubrovnik had a municipal old people's home, and by 1432 it had an orphanage. The slave trade was abolished in the city in the 15th century, long before people elsewhere entertained the idea. Also by the 15th century, public assistance was available for people in need: There was a public health service, a town planning "institute" and numerous public schools.

And having met many of the people over the past couple of years who are charged with the responsibility of rebuilding Dubrovnik—including its Lord Mayor, Nikola Obuljen—there is no question that some day the city will once again capture the imagination of people from around the world.

Realistically, however, the war in neighboring Bosnia grinds mercilessly on. Diplomats and military planners also are now worried that the war in Croatia could erupt again. "One would be very myopic to fail to see and warn about the gathering clouds of war," the deputy chief of the United Nations force in the Balkans. Cedric Thornbury, said recently, "It will need a major, focused effort by the international community, and a real will for peace if a second Serbo-Croat conflict is to be averted."

STANDING ON PRINCIPLE

Meanwhile, over the past year here in this country, people from the travel industry have formed the "Rebuild Dubrovnik Fund." ASTA President Earlene Causey is chairman: USTOA President Bob Whitley serves on its board. Other directors from the industry include Alex Harris, Don Daly, Patty Noel, Anne-Marie Powell, Ivan Michael Schaffer, Mathew Upchurch and Nazli Weiss, who coordinates the effort from the fund's Washington office. There are five members of the U.S. Congress serving as honorary members, as well as many other people from fields related to the travel industry.

But while the preservation of Dubrovnik is indeed a noble cause, there is, in my view, a deeper significance that transcends Dubrovnik itself. It has to do with the spirit of the people within the American travel indsutry—the recognition that the beauty and culture of the world should be preserved as a matter of moral principle and responsibility for the future.

In a sense, Dubrovnik serves as a symbol to protect and restore things in a world where destruction and decay runs rampant. And that's the essence of it all; decent people who stand on principle. If the senseless ravages of war destroy a heritage, there will always be those kind and gentle people who will find a way to put it back together again.

IN HONOR OF THE VARICK MEMORIAL A.M.E. ZION CHURCH

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Ms. DELAURO. Mr. Speaker, November 21, 1993, the Varick Memorial African Methodist Episcopal Zion Church will celebrate its 175th anniversary in New Haven, CT. I am pleased to pay tribute to this extraordinary institution, and to the parishioners who continue to make it such a positive force in our community.

Established in 1818, and later named Varick Memorial A.M.E. Zion in memory of Bishop James Varick, the church has undergone a number of transitions over the years. In 1841, a devastating fire destroyed the original church building, but the congregation endured. Thanks to the generosity of its faithful members, a new structure was purchased in 1866. That building was moved from Fair Haven to Foote Street, where the church remained until 1911, when a new church home was constructed at the current location of Dixwell Avenue and Charles Street.

Varick Memorial A.M.E. Zion Church has always played a critical role in New Haven. Long a vital source of solidarity, spiritual fulfillment, and moral guidance for New Haven African-Americans, Varick A.M.E. Zion Church has a vibrant and active membership. From the church's founders to the current pastor, Rev. Lester Agyei McCorn, its clerical leaders have consistently encouraged their congregation to contribute to the community. Through a variety of projects—including an outreach center, soup Kitchen, and Hannah Gray Home for the Aged—church members have exhibited extraordinary commitment and dedication in caring for their neighbors. The parishoners' compassionate activism has benefited both our youth and senior citizens.

I commend the Varick Memorial A.M.E Zion Church, and the people who, inspired by their community of faith, help their parish to do so much for so many. On this special occasion, I congratulate this congregation on the celebration of its 175th anniversary.

AMERICAN LEGION AGREES: IT'S TIME FOR UNITED STATES TROOPS TO LEAVE SOMALIA

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. BEREUTER. Mr. Speaker, the American people have come to the conclusion that we should not be in the business of nation-building—in Somalia. Yet, over 10,000 American troops remain committed to the ill-conceived and misdirected U.N. effort of nation-building in Somalia. Unfortunately, if the Clinton administration has its way, those forces will remain deployed in harm's way until March 31, 1993.

Recently the national commander of the American Legion spoke candidly of his concerns about a continued United States presence in Somalia. According to Bruce Thiesen:

> Our mission was to feed Somalia's starving masses who were cut off from supply lines by a bloody civil war. Under the flag of the United Nations, we accomplished that mission. At that point, our troops should have come home.

Mr. Thiesen very appropriately suggests four reasons why the United States should disengage rapidly. First, our involvement in Somalia has not been clearly linked to United States national interest. Second, he notes, quite correctly, that the troop deployment was made without the appropriate consultation with Congress. Third, an error was made in permitting U.S. troops to serve under foreign command. Lastly, Mr. Thiesen notes that captured Americans have not been afforded the protections of the Geneva Convention because the administration has failed to acknowledge the existence of a state of hostilities.

As this body nears consideration of House Concurrent Resolution 170 on accelerated withdrawal from Somalia, this Member would urge his colleagues to heed the admonition of the national commander of the American Legion. This Member would ask that Mr. Thiesen's editorial from the Nebraska Legionnaire be inserted in the CONGRESSIONAL RECORD.

IT'S TIME FOR UNITED STATES TROOPS TO LEAVE SOMALIA

(By Bruce Thiesen)

The civil war in Somalia is a war America does not need, America does not want, and America is not willing to commit sufficient force to win. We are there for the wrong reasons. It's time for our government to do its duty by those they've allowed to be sent into harm's way. As national commander of The American Legion, I am gravely concerned that our involvement in Somalia signals four serious flaws in our foreign policy—flaws that already have cost many American servicemen their lives.

First, America does not have a clear definition of our national interests as it relates to peacekeeping and humanitarian operations. The United States became involved in Somalia's civil war in response to grim photos of starving people. Clearly, we let our compassion dictate our foreign policy and have placed ourselves on a road to quagmire.

When Operation Restore Hope began at the close of 1992, our mission was to feed Somalia's starving masses who were cut off from supply lines by a bloody civil war. Under the flag of the United Nations, we accomplished that mission. At that point, our troops should have come home. But westayed on, mistakenly, as the United Nations turned the humanitarian mission into one of "nation building," the task of rebuilding Somalia's government and its national economy. The American Legion doesn't believe our troops should be used for such political purposes, especially in a country where the United States has no national interest at stake.

Second, Congress has not been involved in approving the commitment of U.S. forces to peackeeping or humanitarian operations. By using the United Nations as a policy-making organ, the Administration is taking American foreign policy out of the hands of Congress and the American people. If our President wants to send our sons and daughters to serve in peacekeeping operations, then he must come before us with clearly defined goals and a time line for the accomplishment of those stated goals. And these operations should never be outside the scrutiny of Congress.

Third, American troops have been placed under foreign command. This should not occur except in circumstances where Congress has granted approval. Congress must establish effective ways to prohibit foreign command of U.S. military forces. The placing of American forces under foreign command violates the U.S. Constitution which designates the President As Commander-in-Chief, thus stripping away American's sovereignty. When our sons and daughters join America's armed forces, they swear an oath to support and defend the U.S. Constitution, not the missions of the United Nations. Both in Somalia and Macedonia, U.S. troops have been placed under foreign command, a dangerous precedent as the United States get more involve in peackeeping operations.

Fourth, American troops captured during peackeeping operations have not been given POW status and afforded all the protections of the Geneva Conventions. The American Legion has called on the Administration and Congress to establish a Prisoner of War/Missing in Action Commission to deal with the question of the official status of U.S. military personnel taken prisoner by a foreign power when this nation is not at war.

According to current Defense Department policy, U.S. service personnel taken during peacekeeping operations are not prisoners of war. They are hostages or political prisoners with not defined legal rights under the Geneva Conventions. In combat, Desert Storm for example, search and rescue teams were on alert to rescue downed pilots and stranded infantry troops before they were captured. Whether a rescue is mounted is a military and tactical decision. During peacekeeping however, GIs turned the hostage become the State Department's responsibility and the decision to rescue those personnel becomes a political question.

Five years ago, U.S. Marine Col. William R. "Rich" Higgins was captured by terrorists in Lebanon and brutally murdered. He was serving under the UN flag at the time and was accorded no dignity or the limited protection afforded by POW status. He was treated as a common criminal and hung. A recent letter I received from his wife, Marine Lt. Col. Robin L. Higgins makes the tragedy of America's current policy apparent: "Rich was never declared a prisoner of war * * * some of what that meant for Col. Higgins was no rescue, no retribution, no insistence on any international conventions of treatment, and no posthumous POW medal. America failed my husband."

America will continue to fail our sons and daughters who serve in the nation's armed forces unless it declares every U.S. serviceperson captured by hostile forces a POW. Col. Higgins was hanged by terrorists who were never held accountable for their actions because our own government didn't hold itself accountable for Higgins' safety.

At this writing, at least one American serviceman is a hostage—not a POW—in Somalia; 27 have lost their lives there, and 165 servicemen have been wounded. How many more Americans who've vowed to serve their country faithfully in uniform will be killed, wounded or captured and left to an uncertain fate before our government does its duty to them?

HAPPY BIRTHDAY, MARINES

HON. FRANK TEJEDA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. TEJEDA. Mr. Speaker, the United States Marine Corps celebrates is 218th birthday on November 10, and in honor of that event I would like to insert in the RECORD the following article from the San Antonio Express-News. The article recognizes the special group of marines who served in the Combined Action Program [CAP] in Vietnam. The CAP Marines volunteered to live in Vietnamese villages to provide security, improve living conditions, and improve the combat effectiveness of the South Vietnamese Popular Forces. As a young soldier in Vietnam, I personally witnessed the important work performed by these marines, and I am proud to honor these soldiers.

This week, a group of former CAP members, the CAP Unit Veterans Association [CUVA], are meeting in my hometown of San Antonio. CUVA, which promotes fellowship among former CAP members, preserves the unique history of the program, and lends assistance to dependents of former CAP members, benefits not only the veterans' community, but society at large. Future generations should remember and understand the involvement of these dedicated marines, and the CUVA fills that need.

With the Marine Corps Birthday approaching, I wish to join our Nation in honoring the great veterans in the CUVA on this special day.

HAPPY BIRTHDAY, U.S. MARINES

(By Maury Maverick)

On Nov. 10 the U.S. Marine Corps will celebrate its 218th birthday. In today's column, my salute this year goes to the Marines who volunteered to live in the villages of South Vietnam. About 80 of those former Marines from all over the country will be in convention, Nov. 8–12, in San Antonio at the Travelodge Hotel on Villita Street across from the County Courthouse.

I urge all Marines, active and former, to help make their stay a pleasant one. For details call Professor Robert Flynn at his home (492–1127) or at Trinity University (736–7517).

You old Marines (and everybody else in town) go to your bookstore and buy Bob's paperback book, "A Personal War in Vietnam." (140 pages, Texas A&M University Press, $11.95). It is the professor's gripping account of those Marines who lived in the villages. I bought my copy at The Twig in Alamo Heights.

A Baptist country boy from Chillicothe, Flynn has been a teacher at Trinity for some 30 years and has national standing as a writer with seven books, mostly novels, under his belt.

Naomi Nye, a former prize student, says of Flynn: "He's one of the best teachers I ever had, an inspiring and intellectual person." (The professor may be all that, but he still looks to me like a Baptist from Chillicothe, which I say as a compliment since it means that those sweet-smelling, hotsy totsy Presbyterians at Trinity University haven't ruined him.)

Flynn went to Vietnam as a war correspondent for True magazine. He tells about it in the introduction to his book:

"I had many reasons for going to Vietnam * * * I was almost 38 years old and a father, a novelist and a professor * * * I had been a Marine (having enlisted) in the Korean peace action * * * I never got to Korea.

"I believe I was confirmed by my (combat) experience in Vietnam," Flynn explains. He then goes on at length in praise of the Marines who served in the villages. But he also has a warning for our country: "Americans persist in seeing themselves as the Lone Ranger who rides into town, chases out the bad men, and rides away while men cheer and virgins swoon. However, it becomes increasingly difficult to find Tonto."

In his book, Flynn describes how groups of 14 Marines plus one Navy corpsman would live in the various villages where they taught the natives to defend themselves, delivered babies, pulled teeth, improved the sanitation and worked in agriculture.

Over lunch, the professor told me: "I believe the idea originated with old-time Marines like Chesty Puller who saw in Nicaragua the ineffectiveness of regular military tactics against the guerrillas."

That reminded me of something my retired publisher, Charles O. Kilpatrick, a combat Marine, told me. In the Pacific of World War II Puller would gather junior officers about him and say something like, "This is my kind of a war. We are here; the Japanese are over there. There's no question about the location of the enemy or who the enemy is. In Nicaragua when you went to sleep at night you never were sure your native orderly wouldn't cut your throat."

That, I gather from reading Flynn's book, is what the Marines experienced living with the villagers. The natives were generally friendly, but the leathernecks never know when they might get double-crossed.

Flynn is right when he claims "Tonto" is getting harder and harder to find. That's true be it Haiti, Somalia, and especially the Middle East. It is something for our young president to think about—he who, as a college boy, opposed Vietnam, but who, as a candidate, approved the stationing of Marines in Beirut and approved the invasion of Grenada, Panama and Iraq where, since then, an estimated 150,000 or more Iraqi children have died. All of those engagements remind me more of Caesar than of George Washington in his Farewell Address.

It was difficult for me to find research on the Marines who lived in the villages of Vietnam and so I called Col. J.E. Greenwood, USMC (Ret.), editor of the Marine Corps Gazette. As luck would have it, he worked with those Marines, for whom he had the highest praise. Not only that, he sent me all kinds of research including the book "The Combined Action Platoons," by Michael Peterson, which stated:

"The Marines distilled their experiences in the banana wars (in Central America) into an operations manual that became the Corp's magnum opus, the Small Wars Manual. The Manual provided a source of guidance for the conduct of counter-insurgency operations that anticipated later strategies. It is particularly interesting in its insistence on what would later be called low-intensity conflict, coupled with an appreciation of the social, economic and political milieu in what operations must be conducted."

(As a matter of fact, the U.S. Marines and the U.S. Army had a conflict between themselves. The Army was more inclined to search out and destroy than it was in working in the villages).

Robert Flynn ended his book, and I think accurately, on the pessimistic note about Tonto. Peterson in his book, equally pessimistic, writes: "Even assuming the United States had to intervene militarily in Vietnam (which it did not), I do not believe that if (the U.S. had employed a nationwide (village pacification program) that the United States would have won the war. To paraphrase (Barbara) Tuchman, Vietnam was a problem for which there was no American solution."

Peterson seems to warn against our country involving itself in future wars of Third World countries. If he is still around and attends the San Antonio reunion of Marines in convention, I plan to ask him what he thinks about places such as Haiti.

But the lead cheer today goes to Robert Flynn of Trinity University, devoted as he is to those Marines who were part of the pacification program in Vietnam. Get his inexpensive paperback book and read it.

To you Marines in convention, and to all Marines of South Texas, happy 218th birthday.

Semper Fidelis.

WETLANDS LEGISLATION INTRODUCED

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. STUDDS. Mr. Speaker, for several years, controversy over the Federal Wetlands Regulatory Program has raged unabated. The ensuing gridlock has caused mistrust of any reform ideas and virtually blocked any possibility for fixing the program. Legitimate dialog ceased long ago, with polarized rhetoric taking its place. While both sides of the debate have contributed thoughtful, well-reasoned suggestions for improvement, neither side has been willing to give an inch. This stalemate is tragic because there is real need for reform and genuine opportunity to improve wetlands protection and make the regulatory program more user friendly.

President Clinton launched a major initiative to break this logjam and bridge the differences between the two sides. Through extensive discussion with experts in the environmental community, industry, and academia, and with an unprecedented level of cooperation among Federal agencies, a new Federal wetlands policy was announced on August 24, 1993.

The leadership provided by the Clinton administration presents the Congress with the opportunity to forge ahead on the wetlands debate. It has moved us away from two polarized points of view and toward a rational discussion of how to fix what is broken in the permitting process and close loopholes that allow wetlands to be destroyed. It provides a new opportunity for substantive congressional action rather than simply more rhetoric. I believe the President's proposal will help us move forward together to provide greater protection to wetlands, a sensible regulatory process, and fairness, consistency, and predictability for landowners.

Many pieces of the administration's policy can be initiated without congressional action, but many cannot. Today, I am introducing legislation that embodies the Clinton wetlands policy and provides the statutory mandates the administration needs to make it a lasting solution.

I am including with this statement a section-by-section analysis of my bill. I invite every Member, whether you are a cosponsor of H.R. 350, H.R. 1330, or any other bill to join me as a sponsor of H.R. 3465.

SECTION-BY-SECTION ANALYSIS OF THE WETLANDS PROTECTION AND MANAGEMENT ACT

Section 1. Short Title. The short title of the bill is the "Wetlands Protection and Management Act".

Section 2. References. This section states that an amendment or repeal in this Act shall be considered to be made to a section or provision of the Federal Water Pollution Control Act, (i.e., the Clean Water Act).

Section 3. Policy and Findings. This section amends the Clean Water Act's Declaration of National Goals and Policy, stating that it is national policy to protect the nation's remaining wetland base and restore wetlands that have been degraded.

The findings elaborate the value of wetlands in maintaining the chemical, physical, and biological integrity of the nation's waters. Integrated planning of wetlands with other water resources is encouraged as is coordination among Federal, state and local governments. They also discuss the many economic benefits we gain as a nation by protecting wetlands including flood control, water purification, erosion control and fish and wildlife habitat.

Section 4. Delineation of Wetlands. Subsection (a) calls for the continued use of the 1987 Corps of Engineers wetlands delineation manual. It also states that no new manual for delineating wetlands shall be issued until after the National Academy of Sciences has completed its study as authorized by Public Law 102–389 and that the study must be considered in any revision and any changes must be field tested and open for public comment.

Subsection (b) provides for the delineation of wetlands on agricultural lands to be the responsibility of the Soil Conservation Service (SCS), using the 1987 manual in conjunction with the National Food Security Act Manual. The Corps will continue to make wetlands delineations on non-agricultural lands. The Administrator has the discretion to give greater authority to SCS to delineate nonagricultural lands that are associated with agricultural lands if it will streamline the permitting process. Both SCS and Corps delineation activities remain subject to Environmental Protection Agency (EPA) oversight and EPA may reassume delineation authority in problem cases.

Subsection (c) authorizes the revision of guidelines for wetland delineations in order to incorporate regional differences in plants, soils and wetlands hydrology. These revisions may be completed prior to publication of the National Academy of Sciences' study.

Section 5. Wetlands Conservation, Management and Restoration. This section provides for the Administrator to make grants to states from monies provided for administration of state water quality programs under section 104 for state wetlands conservation planning. This section also establishes a new Section 321, State Wetlands Conservation Plans, in the Clean Water Act. Subsection (a) of 321 provides for the Administrator to make grants to assist in the development and implementation of state wetlands conservation plans.

Subsection (b) provides guidelines for the contents of the plans including wetlands inventory, descriptions of causes of losses of wetlands, applicable state and local programs, potential restoration sites, management strategies and timetables, and monitoring mechanisms.

Section 6. Issuance of Permits. This section amends Section 404(d). Paragraph (1) requires that to the extent practicable, there be no net loss of wetland acres, functions and values for each permit issued.

Paragraph (2) requires that all conditions of a permit shall be enforceable and any mitigation required as a condition of a permit has to be monitored to ensure compliance and to determine effectiveness.

Paragraph (3) requires permit reviews for minor permits to be completed within 60 days. Minor permits are for actions of an individual landowner which affect less than one acre of wetlands. They cannot be part of a larger plan that would disturb more wetland acres. Written notice by the Corps is required if the application should be subject to further review due to unacceptable risks to the environment or if additional time to process permits is necessary to comply with other federal laws.

Paragraph (4) requires the Secretary to establish a new fee schedule for processing permits with an annual revenue goal of $10,000,000. Fees for permits for individuals for non-commercial uses may not exceed $20. The permit fees will be deposited in a newly established Small Land Owner Assistance Account in the U.S. Treasury. The amounts collected shall be used to provide technical assistance to any landowner who lacks the financial capacity to comply with this section. For instance, assistance may be provided in delineating wetlands and identifying appropriate mitigation measures.

Section 7. General Permits. Paragraph (1) allows permits to be issued on a state or nationwide basis for specifically defined categories of discharges of dredged or fill material if it has been determined that the activities are similar, will cause only minimal adverse environmental effects, and will have only minimal cumulative effects on the environment. General permits may also be issued for specific categories of waters. It also requires that general permits adhere to section 404(b)(1) guidelines, have minimum standards, and include adequate measures to monitor activities to assure compliance.

Paragraph (2) authorizes programmatic general permits to be issued in order to avoid unnecessary duplication of federal, state, or tribal requirements. The agency administering the regulatory program must have jurisdiction over the activities andwaters within the scope of the programmatic permit. The section provides safeguards to ensure that the programmatic permit will have no more than minimal cumulative adverse effects and at least the same level of protection as the Federal program provides including being subject to other Federal environmental laws. Finally, it allows for review of each permit application by all pertinent Federal agencies.

Paragraph (3) limits the term of general permits to five years and provides that they be revoked if they result in more than minimal adverse impacts on the environment.

Paragraph (4) requires notice and an opportunity for public comment for any activity permitted through a general permit that requires predischarge notification.

Paragraph (5) requires the review of general permits by the Secretary every two years and revision if there is evidence of adverse cumulative effects.

Section 8. Exemptions from Permitting Requirements. Subsection (a) amends the language in 404(f)1 to clarify existing exemptions for normal farming activities.

Subsection (b) adds a new paragraph to 404(f) exempting certain areas which are not considered navigable waters, such as: irrigation ditches in uplands, artificial lakes, swimming pools, stormwater detention areas, and any land determined by the U.S. Department of Agriculture to be prior converted cropland.

Section 9. Report on Effects of Permit Program; Needs Analysis. Subsection (a) requires a biennial report to Congress on the effects of activities conducted under permits, including general permits. The section also outlines the contents for the report, and establishes a national database containing information on wetland functions, values, acreage, mitigation and restoration. This report will allow the Federal Government and the public to be regularly apprised of the losses and gains of wetlands associated with the permit program.

Subsection (b) requires a needs analysis by the Comptroller General and recommendations for additional staffing and funding for the agencies involved with wetland regulation.

Section 10. Administrative Appeals. This section requires the Corps of Engineers to establish an administrative appeals process to allow individuals to question regulatory decisions without having to pay for a full blown judicial review. Appeals will be heard on jurisdiction, administrative penalties, or permit decisions. An appeal must be heard by someone other than the official who made the decision in question and in a venue that is in the proximity of the parcel of property in question. The appeals process for permit decisions is also open to anyone who participated in the public comment process.

Section 11. Wetlands Mitigation. This section establishes mitigation guidelines and permit requirements for wetlands mitigation projects.

Section 12. Mitigation Banks. This section adds a new section to 404 authorizing mitigation banks, and also provides for the establishment of specific financial and environmental guidelines for establishing and maintaining mitigation banks.

Section 13. Wetlands Delineation Certification Program and Programs to Provide Technical Assistance. This section outlines a program for federal employees and other individuals to become certified as wetlands delineators.

Section 14. Education and Outreach Program. This section seeks to help the public better understand the wetlands regulatory program by calling for EPA, the Corps, and the SCS to improve existing outreach programs; assist individuals with the requirements of this section; and to inform the public of the value of wetlands. It is also required that private landowners be provided with technical materials to assist with wetlands identification.

Section 15. Section 404 Definitions. This section redefines dredged or fill material for the purposes of this section to include any additional or redeposit of dredge or fill material which is incidental to draining, dredging, excavation, channelization, flooding, pumping, driving of pilings, diversion of water, mechanized landclearing, or ditching. The new definition also includes these activities if they significantly impair the flow or change the hydrologic regime of water without the addition of materials. Currently, many activities that destroy wetlands escaped regulation because they were not specifically "dredge" or "fill" activities. This section also defines prior converted croplands.

Section 16. General Definitions. This section defines navigable waters and wetlands for the purposes of this Act.

Section 17. Sense of Congress Concerning Wetlands Reserve Program. This section acknowledges that non-regulatory cooperative ventures such as the Wetlands Reserve Program authorized by the Food Security Act are effective conservation and restoration programs and should be encouraged by full funding.

COATED PILL OF CONTROLS

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1993

Mr. GINGRICH. Mr. Speaker, I would like to call to your attention an article in the Washington Times written by Ben Wattenberg. I believe this article outlines important issues pertaining to the recent history of the health care reform movement as they pertain to the current debate. Furthermore, it is my hope that an analysis of this history will provide us with the insight necessary to avoid the pitfalls experienced in 1992.

In 1992, legitimate efforts to reform the American health care system were being introduced. In particular, legislation proposed by Senator Lloyd Bentsen introduced reforms that were bipartisan in nature and therefore widely accepted. Additionally, Mr. Wattenberg identifies four key issues that were catalysts for reform in 1992.

First, corporations were beginning to aggressively streamline their organizations by cutting middle management and calling into question skyrocketing health care costs. Second, insurance companies were being scrutinized for denying coverage to people with previous medical conditions. Third, there was a consensus in Congress that the U.S. health care industry was in trouble and that reform was needed. Finally, and most importantly, the Bush White House had availed itself to discussing health care reform legislation if it included malpractice reform.

Mr. Speaker and distinguished colleagues, we must recognize that the opportunity to contribute, in a measurable way, to the well-being of society presents itself infrequently and when it does must be acted upon. If we cannot pursue a truly bipartisan plan that respects and encourages individual responsibility, free choice, and private enterprise then there will be no winners.

COATED PILL OF CONTROLS

(By Ben Wattenberg)

Cherry-pickers unite! Your time has come!

The phrase goes back to the last health-care debate, which occurred a couple of years ago. Sen. Lloyd Bentsen was pushing for new federal health insurance legislation. The Bush White House, gradually coming out of its political stupor, was interested in the idea.

The time seemed ripe. Corporations were going leaner and meaner, which led to leaner and meaner health insurance programs. Insurance companies were denying coverage on the basis of "pre-existing conditions," thereby cutting down "portability," specializing in covering people least likely to need insurance. (How sweet.) Malpractice awards were soaring, yielding "defensive medicine" driven by juries, not doctors. Middle-class Americans, the kind who vote, were getting worried and angry. In Congress, a new consensus for reform was growing.

Mr. Bentsen's legislation tried to fix what was most obviously wrong. He aimed at encouraging small businesses to provide their employees with insurance, in a way both political parties could agree upon. Applicants could not be turned down for pre-existing conditions. Portability would be enhanced. When the Bush White House finally came up with its own proposal, it drew heavily on Mr. Bentsen's work, adding tough controls on malpractice, a universal insurance form to cut down on waste, and health-care vouchers to cover most, although not all, of the remaining uninsured.

And it never happened. The opposition in Congress came principally from liberal Democrats. Borrowing an epithet from the insurance industry, they said it was "cherry-picking," taking just the good stuff that most folks agreed upon. (What a terrible way to legislate that would be.) Good was Bad. If the ripe cherries got picked, horrors, voters wouldn't be upset any more. The motivation for broader health reform might dissolve before America took its bitter medicine. The liberal prescription for such medicine came under many brand names, but the generic label on the bottle was always "More Government Control."

There was a second reason that Bentsen-style incremental reform didn't succeed. The 1992 presidential election year approached, with health care looming as a big issue. Some of Mr. Bentsen's Democratic colleagues said, "Don't send Bush a bill he could sign"—lest Republicans get political credit.

And so, we now have the proposed Clinton remedy. Surely, he deserves credit for bringing the issue front and center on the political agenda. Surely, there is much that makes sense in his plan. In fact, most of the good old cherries are right there, including portability, elimination of pre-existing conditions, and a universal insurance form. (Although tough treatment of malpractice abuse is missing.) The Clinton plan goes further than Mr. Bentsen's or Mr. Bush's: Everyone gets coverage, including prescription medicine.

But, alas, with these fine Clinton cherries, we also get a coated pill of more government control, which in this day and age constitutes political malpractice.

Mr. Clinton proposes scores of new state "health alliances" to shape the very nature of medicine in America, adding one more layer of governmental busybodies to a system already overloaded with bureaucracy. And there will be federal price controls, in the form of a National Health Board, regulating the costs of insurance premiums, which under the Clinton plan means controlling everything.

Price controls are a disaster. They never work economically. They can reduce innovation for new products—like drugs for Parkinson's, cancer and Alzheimer's. And they further extend the gray power of government over our lives—just when Vice President Al Gore has told us all about how the federal quagmire can't buy an ashtray without a task force.

It's unlikely to happen. The votes in Congress are not there for such a power grab. What we are probably going to get—what we should get—is Bentsen-style incremental reform, expanded to include coverage for all. Mr. Clinton's plan fixes more than is broke. It's time to pick some cherries.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks

section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, November 9, 1993, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 10

9:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings to examine the Immigration and Naturalization Service's (INS) Criminal Alien Program.
SD-342

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

9:45 a.m.
Armed Services
To hold hearings on the nominations of R. Noel Longuemare, Jr., of Maryland, to be Deputy Under Secretary of Defense for Acquisition, Henry Allen Holmes, of the District of Columbia, to be Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, and Gilbert F. Casellas, of Pennsylvania, to be General Counsel of the Department of the Air Force.
SR-222

Labor and Human Resources
Business meeting, to consider the nomination of Harold Varmus, of California, to be Director of the National Institutes of Health, Department of Health and Human Services.
SD-430

10:00 a.m.
Banking, Housing, and Urban Affairs
Securities Subcommittee
To hold oversight hearings on the mutual fund industry.
SD-538

Finance
To hold hearings to review the Uruguay Round of multilateral trade negotiations.
SD-215

Foreign Relations
To hold hearings on the nominations of Theodore E. Russell, of Virginia, to be Ambassador to the Slovak Republic, Thomas L. Siebert, of Maryland, to be Ambassador to Sweden, M. Larry Lawrence, of California, to be Ambassador to Switzerland, Nicholas Andrew Rey, to be Ambassador to the Republic of Poland, Edward Elliott Elson, of Georgia, to be Ambassador to Denmark, and John F. Hicks, Sr., of North Carolina, to be Assistant Administrator for Africa of the Agency for International Development.
SD-419

Labor and Human Resources
To hold hearings to examine long-term care for senior citizens and individuals with disabilities.
SD-430

Joint Organization of Congress
Business meeting, to continue to mark up proposed legislation to reform congress.
S-5, Capitol

2:00 p.m.
Governmental Affairs
To hold hearings to examine the North American Free Trade Agreement's (NAFTA) job statistic claims.
SD-342

2:30 p.m.
Agriculture, Nutrition, and Forestry
Agricultural Research, Conservation, Forestry and General Legislation Subcommittee
To hold hearings on S. 1288, to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture commercialization research program.
SR-332

NOVEMBER 16

9:30 a.m.
Indian Affairs
To hold hearings on S. 1146, to provide for the settlement of the water rights claims of the Yavapai-Prescott Indian Tribe in Yavapai County, Arizona.
SR-485

Special on Aging
To hold hearings to examine health care reform issues, focusing on prescription drug price competition.
SD-G50

2:00 p.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine the Immigration and Naturalization Service's (INS) Criminal Alien Program.
SD-342

2:30 p.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to examine the potential effects of proposals to restructure the National Aeronautics and Space Administration (NASA).
SR-253

NOVEMBER 17

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

NOVEMBER 18

9:30 a.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 316, to expand the boundaries of the Saguaro National Monument in Arizona, and S. 472, to improve the administration and management of public lands, National Forests, units of the National Park System, and related areas by improving the availability of adequate, appropriate, affordable, and cost effective housing for employees needed to effectively manage the public lands.
SD-366

Indian Affairs
To hold hearings on S. 1345, to provide land-grant status for tribally controlled community colleges, tribally controlled postsecondary vocational institutions, the Institute of American Indian and Alaska Native Culture and Arts Development, Southwest Indian Polytechnic Institute, and Haskell Indian Junior College.
SR-485

10:00 a.m.
Veterans' Affairs
To hold hearings to examine illnesses as a result of the Persian Gulf War.
SD-106

2:30 p.m.
Indian Affairs
To hold hearings on H.R. 734, to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona.
SR-485

NOVEMBER 19

9:30 a.m.
Indian Affairs
To hold hearings on S. 1526, to improve the management of Indian fish and wildlife and gathering resources.
SR-485

NOVEMBER 22

9:30 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research, Conservation, Forestry and General Legislation Subcommittee
To hold hearings to review the Federal meat inspection programs.
SR-332

NOVEMBER 30

9:30 a.m.
Indian Affairs
To hold hearings on S. 1216, to resolve the 107th Meridian boundary dispute between the Crow Indian Tribe, the Northern Cheyenne Indian Tribe, and the United States and various other issues pertaining to the Crow Indian Reservation.
SR-485

POSTPONEMENTS

NOVEMBER 9

10:00 a.m.
Foreign Relations
Business meeting, to mark up proposed legislation for reform in emerging new democracies and support and help for improved partnership with Russia, Ukraine, and other New Independent States, and S. Res. 160, regarding the October 21, 1993, attempted coup in Burundi, and to consider pending nominations and treaties.
SD-419

3:00 p.m.
Conferees on H.R. 1268, to assist the development of tribal judicial systems.
S-6, Capitol