SENATE—*Tuesday, June 21, 1994*

(Legislative day of Tuesday, June 7, 1994)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the Honorable HARRIS WOFFORD, a Senator from the State of Pennsylvania.

PRAYER

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

Let us pray:

* * * *they that wait upon the Lord shall renew their strength; they shall mount up with wings as eagles; they shall run, and not be weary; and they shall walk, and not faint.*—Isaiah 40:31.

Eternal God, the wisdom of Isaiah speaks to our contemporary, frenzied lifestyle. We can go faster than ever, but we never seem to have enough time, and we never seem to arrive. We have more of everything, materially, than any other culture at any other time, but we never seem to have enough. Our technological progress exceeds unimaginable bounds, while we disintegrate and decay socially and culturally. We pass hundreds of laws, yet crime and poverty and violence increase.

Patient God, lead us to the light of Isaiah's wisdom that we may learn to wait upon the Lord and be continually renewed.

In the name of Him whose strength is made perfect in our weakness. 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, June 21, 1994.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President and Members of the Senate, I will now outline the schedule for the Senate for today and for the next several days.

There will be a period for morning business until 9:30 a.m., at which time the Senate will resume consideration of the so-called Whitewater resolution. That will be disposed of in a vote, or a series of votes to occur beginning at 2:15 p.m., today.

The Senate will then resume consideration of the Treasury, postal appropriations bill on which action began yesterday. It is my hope that we can complete action on that bill today.

The Senate will then proceed to consideration of the Department of Defense authorization bill, and the foreign operations appropriations bill.

I expect that during this week the Appropriations Committee will report two additional appropriations bills, the energy and water, and the Department of Agriculture appropriations bills. I hope that we will be able to consider those in the next several days.

I also hope to proceed to consideration of the striker replacement bill. And under a previous order, I will move to proceed to the product liability bill not later than the close of business on Friday.

I expect that there will be votes during the day today, not prior to 2:15 p.m., but certainly thereafter, as well as throughout the week.

As I indicated in my announcement of the schedule for this period, votes are possible on next Monday, June 27. I hope to have an announcement with regard to the schedule for that day during this week.

I conclude by saying that, as I have indicated previously, the legislative period between the Fourth of July recess and the Labor Day recess will be a very busy one. I expect the Senate to be in session with votes 5 days a week with lengthy sessions during each of those days as we will have a number of matters on which action will be required.

Mr. President, I thank my colleagues for their cooperation. I note the presence of the distinguished Senator from Vermont.

I yield the floor.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 9:30 a.m. with Senators permitted to speak up to 5 minutes each.

Under the previous order, the Senator from Vermont is recognized to speak for up to 10 minutes.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be able to have the full 10 minutes even if it meant the time for morning business had to be extended by a couple minutes to accommodate that.

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

The Senator from Vermont is recognized.

Mr. LEAHY. I thank the Chair.

(The remarks of Mr. LEAHY pertaining to the introduction of S. 2216 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

WELCOME TO 26TH ANNUAL CONFERENCE, WOCN

Ms. MIKULSKI. Mr. President, the State of Maryland welcomes the Wound, Ostomy and Continence Nurses [WOCN] Society for their 26th annual conference at the Baltimore Convention Center on June 19–23. The conference theme is "Positioning for Change—Where Do We Go From Here?"

WOCN is a 3,000-member professional association representing nurses who specialize in the care of patients with wounds, ostomies, and incontinence. Members of the WOCN are registered nurses, many of whom have advanced education as enterostomal therapists [ET] nurses, or specialty education in wound, ostomy, or continence care.

ET nurses traditionally specialized in the care of patients with ostomies. However, as the needs increased for specialists in managing wounds and related skin conditions, ET nurses incorporated wound care into their practice.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Many WOCN members report the majority of their practice is related to wound care.

ET nurses have also extended their practice into the area of continence care, including prevention, assessment, diagnosis, and management. Today, the WOCN membership consists primarily of ET nurses, however, the number of nurses specializing in only wound or continence car is increasing. The WOCN nurse is an integral part of the healthcare system in providing cost-effective care to their patients.

The conference provides an opportunity for participants to enhance their theoretical and clinical knowledge base for the nurse specializing in the care of individuals with a wound, ostomy, or incontinence condition. The conference also aims to identify current issues and trends that impact professional practice; provide resources to assist the participant in marketing their practice and profession; provide an opportunity for the participant to discuss clinical and professionals issues; and recognize available collaborative practice opportunities in various health care settings.

Participants in the conference will include the WOCN membership, allied health care professionals, and pharmaceutical and medical manufacturers. The Clinton administration will be represented at the conference by Ms. Kathleen Hastings, consultant to the Surgeon General on health care reform. She will deliver the keynote address at the opening session on June 20, 1994.

Mr. President, I know my colleagues will join me in wishing WOCN success with their conference. I am pleased and honored that they have chosen the city of Baltimore to host their event.

ADDITIONAL COSPONSOR—S. 1951

Mr. BAUCUS. Mr. President, today I asked Senator MOYNIHAN to include me as a cosponsor of S. 1951, the Reemployment Act of 1994. I wholeheartedly agree with the intent of this legislation—the consolidation and coordination of a variety of worker retraining programs.

However, I have some concerns about this legislation as it is currently drafted. I have outlined some of those concerns in a letter to Secretary of Labor Robert Reich. I ask that the letter be printed in the RECORD. The Governor of the State of Montana, Marc Racicot, has established a Reemployment Act Task Force to track this bill. The Governor has come up with a preliminary set of concerns that he outlined in a letter to me. I ask that this letter also be included in the RECORD.

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

U.S. SENATE,
Washington, DC, June 20, 1994.

Hon. ROBERT REICH,
Secretary, U.S. Department of Labor,
Washington, DC.

DEAR BOB: First of all, on behalf of the hundreds of dislocated mill workers in Western Montana I would like to thank you and your Department for your rapid response to their critical need for Trade Adjustment Assistance funds. The former Champion and Crown Pacific workers have gone through a very difficult period and it has been reassuring to have the U.S. Department of Labor on their side. I am personally grateful for your attention to this issue.

As we discussed, the confusing and critical needs of these mill workers are a perfect example of the need for coordination and streamlining of various retraining programs and the Reemployment Act of 1994. I would like to take this opportunity to let you know that, despite concerns I have about the proposal as it's currently drafted, I intend to cosponsor this important legislation.

One serious concern I have about the Reemployment Act is the cost. It is my understanding that the Administration's proposal advocates an $5.5 billion increase over current spending for FY 1995–1999. Although the need for effective job training programs is critical to prepare Americans for a dynamic economy, during difficult financial times is troubling.

As I also mentioned, I have heard several recurring concerns expressed by individuals and officials in Montana about the workability of the Department's proposal. These problems relate to the potential problems associated with implementing the bill in a rural state facing serious economic challenges and changes. Specifically, the administrative structures proposed in Title III of the bill, the One Stop Shop Center, appear to be duplicative of existing structures and could limit our state's ability to provide services effectively.

We are fortunate in Montana to have a big, beautiful state that often functions like a small town. We work together, we cooperate and we design service delivery systems that work for us. As the Reemployment Act moves through the legislative process, I will work to see that it includes enough flexibility to allow that cooperation to continue, both in Montana and in other rural states.

I have enclosed more information regarding Montana's concerns including a letter from Governor Racicot and a letter expressing the concerns of the Vocational Education community. I appreciate your review of this material. As I mentioned, Montana has formed a volunteer Reemployment Act Task Force and this group is prepared to provide comments on the bill as it progresses.

Again, Bob, I want to thank you for your outstanding help with the TAA funds. It is very important to many in Montana. I look forward to working with you on the Reemployment Act.

With best personal regards, I am

Sincerely,

MAX BAUCUS.

OFFICE OF THE GOVERNOR,
STATE OF MONTANA,
Helena, MT, May 20, 1994.

Sen. MAX BAUCUS,
U.S. Senate,
Washington, DC.

DEAR SENATOR BAUCUS: We are pleased to send you comments on the proposed federal Re-employment Act of 1994. Montana is perhaps unique in our willingness and ability to work together in common purpose within our job training community.

Background: On April 18, a one day statewide forum on the proposed Reemployment Act was held in Helena. This forum was sponsored by the Montana Job Training Coordinating Council, the Concentrated Employment Program and Balance of State Private Industry Councils, and the Department of Labor and Industry. Approximately 250 people attended from across the state and representing a broad range of interests including job training, welfare, education, apprenticeship, unemployment insurance, and labor market statistics.

The goal of the forum was two-fold: to provide those in attendance with an overview of the Act and to develop consensus comments for our Congressional delegation. As Governor Racicot stated in his invitation to attend this forum, "Where Montanans speak with unity is where we can be most effective with our Congressional delegation to help in their deliberations on this key legislation."

The overview of the Act was provided by Niall Rogers from Region VIII, who participated on the DOL team responsible for drafting the legislation. Breakout sessions were then conducted to develop consensus and report back in three areas:

(1) Title I Comprehensive Program for Worker Reemployment and Title II Retraining Income Support and Flexibility in Unemployment Compensation.

(2) Title III One-Stop Career Center System.

(3) Title IV National Labor Market Information System and Title V Reinvention Labs for Job Training for the Economically Disadvantaged.

RECOMMENDATIONS

Generally: It is safe to say that participants at our forum were stunned at the amount of detail and micro-management contained in the 250 page draft bill. While it is a most assuredly admirable undertaking to attempt to legislate for every possibility in every community and state in America, our consensus was that it is not possible to construct a detailed floor plan that will fit the terrain in New York City and also in Miles City, Montana. We strongly encourage a backing away in law from the "how" a program is operated and more emphasis on "what" the program accomplishes. If that is not feasible, then consider a rural exception for states like Montana, allowing us to design a streamlined delivery that works for us. We simply cannot afford the overhead these job training programs are causing by requiring a different delivery system for each. We would prefer to streamline overhead and direct more funds to citizens.

Montana is working to promote community based design and delivery of all human service programs into integrated systems of which job training programs are one component. With our total population of only 800,000, our definition of local and community are much different than envisioned in the Act. Again, we need the flexibility to keep job training programs a partner in this bigger effort.

Additionally, we are concerned about effective competition. (We refer here to the request for proposal selection process, not to offering choice to consumers. We strongly believe in the value of good customer service and enjoy the "competition" to provide good service. Our experience, as an administrative entity and as service providers, has indicated that competition for dollars between service providers who are providing similar services inhibits coordination and cooperation on behalf of the customers. The proper way to

deal with poor service is through the monitoring and evaluation systems not through the funding process. We see no point in considering an operator with poor performance for additional funding, they should be eliminated by the monitoring process.) We believe that the four-year competitive process to choose career center and one-stop operators set forth under Title I Section 118 and Title III Section 313 is disruptive and divisive. When these systems are in place and the operators are performing well, we believe they should be allowed a certain security to conduct business without the added encumbrance of a bidding process every four years. We do believe that these systems should be held accountable to reasonable standards of performance through monitoring and evaluation processes.

We also believe that putting a well coordinated (including an electronic network) delivery system of program operators out to bid every four years is not only disruptive at this level, but is also not cost effective. Please realize that we base this concern on experience; Montana has been bidding every one to two years all along and is trying to move away from this frequent to bring about better coordination and stability. If mandatory selection frequency is inevitable, not less frequent than seven years would probably be adequate in Montana, with opportunity for waivers under certain conditions such as community consensus. There simply aren't many operators in most of our communities. We note that, of all the federal programs that come to us, only job training seems obsessed with competition for funding. Competition really cannot take the place of effective quality control, enforcement and results.

(1) Titles I and II—Comprehensive Program; Retraining Income Support:

Prior to talking about concerns in specific sections of the law, we would like to point out that several of the items listed below (including paragraphs number 1, 2, 3) are good examples of too much detail that we suggested should be eliminated in our introductory paragraphs. If they cannot be eliminated or greatly reduced, then we present the following concerns with the realization that different sections of the country may have very different concerns about the same issues.

Section 119, Limits.—The proposed limits discriminate against economically disadvantaged citizens who have not been recently employed and therefore probably have few resources. Likewise, training limited to $4,750 per participant will not be sufficient for those with fewer skills to obtain high technology employment. Additionally, the two year training limit may not be sufficient to attain the higher skills necessary for long-term employment. Generally, the imposed limits seem arbitrary and undefensible.

Worker profiling information should be available to career centers as soon as possible so that clients can be steered to the appropriate services. All others should receive immediate testing and assessment to determine client needs and goals. Only then should a client be assigned to either Basic or Intensive Services.

16 Week Window for Enrollment.—Similar to the two year cap on training, those with few skills may have to spend more than sixteen weeks in basic and remedial skills training before they are ready for enrollment into actual job training. If the Individual Service Strategies are to be the foundation tools for further training, this time period may be too short. We suggest that time limit extensions be allowable, with justification in the ISS.

Pell Grant Exclusion.—We suggest that participants who receive Pell Grants should not be penalized amounts commensurate with their Cost of Attendance (COA) in available funds for training under the proposed legislation. However, service providers should be held accountable to coordinate resources for their clients.

Section 152.—Pre/post Placement Percentage (as a performance standard).—Montana urges care be taken that the Pre/post Placement Percentage standard does not compare directly with the former wage, since wage trends for upgraded employment are not always higher than previous wage experiences.

Technical Assistance.—We recommend that technical assistance and capacity building be made available before performance failure occurs.

Three-year Income Support (Section 204).—This limit may work against those with less than 3 years of tenured employment. This provision will limit these participants with lower personal reserves to 52 weeks of unemployment compensation. Additionally, this provision makes no mention of start-up help for those wishing to enter self employment.

Performance Standards.—Montana questions why this program should use indicators for economically disadvantaged populations when training programs already exist for this target group (JTPA Title II; JOBS).

(2) Title III—One-Stop Career Systems:

Workforce Investment Boards (WIBs).—Montana feels strongly that private sector involvement is a valuable component. Similarly we do not like to see the role of Local Elected Officials (LEOs) diluted. We urge flexibility within the WIB for membership composition and voting privileges.

In general, we urge that WIBs be kept both voluntary and flexible. We believe that this bill creates a duplicate administrative structure. The administrative entity/grant recipient still exists under a unit or consortia of local government while the WIB has its own staff as well. We urge that the bill have one administrative entity/grant recipient structure.

The overall power and authority of the WIB must be further clarified, especially as it relates to other programs within the purview of job training (i.e., the Employment Service. Within the state of Montana the Employment Service has worked hard at having local offices become more like "Community Based Organizations" and have been very successful at building community support by being responsive to each community's needs. Concurrently, the Employment Service sees the change in the economy toward a more global economy. In order to be responsive to America's needs to be globally competitive the Employment Service needs to be at least a national system and services like the Automated Labor Exchange and America's Job Bank are being offered in every Montana Job Service office and many other small communities. For the Employment Service to be an effective tool in our national economy we still need a coordinated federal system. Thus we need a much clearer definition of the federal, state and local authority.) While we support the idea of the WIB having broad authority over all local training programs (including Job Corps), the current bill makes the WIB answer to its own operators instead of the other way around. We recommend the WIBs have sufficient authority to match whatever local level of responsibility is established.

We concur that states and local service areas should continue to improve coordination and communication. In conjunction, Montana urges that coordination and communication be a priority at the national level, especially between the Departments of Labor, Education and Health and Human Services.

We suggest a reasonable transition period (at least one year) be allowed to work out local authority, organization and procedural issues. Major changes to any system can cause upheaval; we believe a transitional period will ease growing pains.

Most-in-Need.—There appears to be a mixed message in requirements for service to those most-in-need; this target group may also be those least able to pay for services.

Demand Occupations.—Training funds should be prioritized by demand occupations in the area; funds should not be spent on maintaining institutions, but rather on the actual occupations identified as in demand in the community. We also suggest flexibility by area for identifying demand occupations. (An example: blacksmith may not normally be considered a demand occupation; however, in Miles City, Montana, there may be a demand for blacksmiths.)

Quality Assurance.—We suggest that a process outside the regular educational system be designed for quality assurance for schools.

Other Programs.—We believe that programs both in and outside USDOL should be included in the legislation: Job Corps; chemical dependency programs; mental health; Pell Grant assistance; Vocational Rehabilitation; Adult Basic Education. The waiver approach envisioned in the legislation is too cumbersome and slow to be practical.

Flexibility.—We urge legislation which allows one-stop centers to have broad and flexible law and rules so centers can best fit local resources.

(3) Titles IV and V—National Labor Market System; Reinvention Labs:

a. Labor Market Information System:

The system must focus on where the jobs are and will be, and what types of training will be available.

A bulletin board system is the future avenue for such information. Existing electronic systems which are currently up and working well should be kept in place. Updated information is the most important aspect of a quality labor market information system.

We would urge that resources not be diverted unduly into evaluation and oversight and that evaluation instruments be developed with states and local involvement.

Training and technical assistance to operate the system should be a part of the proposed legislation.

The system should be service-based as well as technology-based. It must apply to real-life situations.

b. Reinvention Labs:

We believe that the waiver process should be flexible enough so that SDAs or areas or operators within an SDA could be eligible to apply.

The Secretary should be able to approve as many worthwhile applications as the Department sees fit to approve. The limit of 75 applications appears arbitrary and unnecessary.

Section 283.—We would request that a waiver once approved only be terminated for cause.

With limited Title II funds, we urge that the labs be funded from additional available funds rather than from Title II base allocations.

Summary: At the close of the forum, the hosting Councils urged interested parties to join a Reemployment Act Task Force. This Task Force will be coordinated by the Councils and will continue to track the Reemployment Act throughout the legislative process. The Task Force will serve to keep the job training community informed as the legislation progresses through Congress and to submit further comments as necessary.

We appreciate the goals of the Reemployment Act of 1994, and we are grateful for the opportunity to comment on the proposed Act early in the legislative process. Again, we wish to emphasize that the comments in this letter represent where many Montanans came together and reached consensus. We appreciate your consideration.

Sincerely,

MARC RACICOT,
Governor.

HELEN KELLICUT,
Chair, State Job Training Coordinating Council.

BOB FRANCISCO,
Chair, CEP Private Industry Council.

DALE KUTTERER,
Chair, Balance of State Joint Council.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, before we ponder today's bad news about the Federal debt, let's have a little pop quiz: How many million would you say are in a trillion? And when you figure that out, just consider that Congress has run up a debt exceeding $4½ trillion.

To be exact, as of the close of business on Monday, June 20, the Federal debt stood—down to the penny—at $4,592,530,655,789.90. This means that every man, woman, and child in America owes $17,515.41, computed on a per capita basis.

Mr. President, to answer the question—how many million in a trillion—there are a million, million in a trillion. I remind you, the Federal Government, thanks to the U.S. Congress, owes more than $4½ trillion.

STOP SERBIAN AGGRESSION: PROTECT ALBANIANS IN KOSOVA

Mr. PRESSLER. Mr. President, I rise today to voice my concern over Serbian aggression in the Republic of Kosova. Over the past several years, I have spoken on this important issue on numerous occasions. Unfortunately, it is necessary to continue speaking out.

If Serb aggression and ethnic cleansing offensives are directed against Kosovar Albanians, regional stability will diminish further and a great tragedy will be inflicted upon a proud people. The danger is real.

I therefore have called upon President Clinton to act decisively to help solve the crisis in Kosova. I ask unanimous consent that a copy of my letter to the President be included in the RECORD immediately following my remarks.

(See exhibit 1.)

Mr. PRESSLER. The Republic of Kosova is a government in exile. Kosovar Albanians are struggling desperately to overcome the socialist Belgrade Government amidst a deteriorating society. A policy to restore the freely elected Government of Kosova and secure democracy is needed urgently. In calling upon President Clinton for a decisive policy that addresses this crisis, I have offered several suggestions.

The United States is able to provide the leadership and the diplomatic tools necessary to assure a stable democratic Republic in Kosova. This leadership and diplomacy can be provided by several means. First, the arms embargo against Bosnia should be ended. Giving Bosnian Moslems the ability to defend themselves against ethnic cleansing aggression would provide a strong incentive for Bosnian Serbs to accept a peace agreement. Military assistance to Bosnian Moslems would be perceived as a threat to Serbian aggressors. Such an action could deter war from reaching Kosova.

Second, lifting economic sanctions against Serbia could be linked to designated improvements in Kosova. This would provide an incentive for substantial improvements for human rights. However, before the trade embargo should be lifted, improvements in the treatment of Bosnian Moslems must be evident. Promises alone are not enough. Third, the United States should recognize Kosova as an independent, sovereign nation and establish full diplomatic relations with it. Recognition of Kosova's sovereignty would legitimize future democratic and market-based reforms in a country that is seeking to establish democratic institutions and a market-based economy. Finally, Mr. President, the no-fly zone could be expanded to include Kosova.

Mr. President, current international events have diverted our attention from the plight of Kosovar Albanians. I call upon President Clinton to direct serious attention to Kosova. This is essential if we are to prevent the escalation of the Bosnian conflict, halt the expansion of Serbian ethnic cleansing, and contribute substantively to the further spread of democracy in the successor States of the former Yugoslavia.

EXHIBIT 1

U.S. SENATE,
Washington, DC, June 8, 1994.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I am writing to express my concern over the current situation in the Republic of Kosova. The potential for violence in this region has been underestimated seriously and demands your immediate attention.

Specifically, I am concerned deeply that Serbian "ethnic cleansing" offensives will reach Kosovar Albanians. Bosnian Serbs already have called for the "ethnic cleansing" of more than two million Albanians living in Kosova. The socialist Belgrade government, with its Serbian-dominated army, has shown no interest in refraining from oppression and human rights violations against Kosovar Albanians.

The United States must exercise leadership and diplomatic tools to ensure Kosova a peaceful separation from Serbia. We can begin by ending the arms embargo against Bosnia so that Bosnian Muslims may obtain the means to defend themselves against the Serbs. Another means of preventing the war from reaching Kosova would be link a lifting of economic sanctions against Serbia to specified improvement in Kosova. This might serve as an incentive for Serbs to comply with human rights initiatives. Also, the United States should recognize diplomatically the Republic of Kosova as an independent, sovereign nation. These steps are essential to obtaining a legitimate democracy and future economic reforms. Finally, we could expand the "no-fly-zone" to include Kosova in an effort to further deter war in that region.

Thank you for your serious attention regarding this matter. I will continue my efforts to work with you in helping to end the conflict in the Balkans.

Sincerly,

LARRY PRESSLER,
U.S. Senator.

BUDGET SCOREKEEPING REPORT

Mr. SASSER. Mr. President, I hereby submit to the Senate the Budget Scorekeeping Report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effect of congressional action on the budget through June 16, 1994. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget (H. Con. Res. 287), show that current level spending is below the budget resolution by $4.9 billion in budget authority and $1.1 billion in outlays. Current level is $0.1 billion above the revenue floor in 1994 and below by $30.3 billion over the 5 years, 1994–98. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $311.7 billion, $1.1 billion below the maximum deficit amount for 1994 of $312.8 billion.

Since the last report, dated June 9, 1994, there has been no action that affects the current level of budget authority, outlays, or revenues.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 20, 1994.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the 1994 budget and is current through June 16, 1994. The estimates of budget authority,

outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 64). This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated June 7, 1994, there has been no action that affects the current level of budget authority, outlays or revenues.

Sincerely,

ROBERT D. REISCHAUER, *Director*.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1994, 103D CONGRESS, 2D SESSION, AS OF CLOSE OF BUSINESS JUNE 16, 1994

[In billions of dollars]

	Budget resolution (H. Con. Res. 64)[1]	Current level[2]	Current level over/under resolution
On-budget:			
Budget authority	1,223.2	1,218.4	−4.9
Outlays	1,218.1	1,217.1	−1.1
Revenues:			
1994	905.3	905.4	0.1
1994–1998	5,153.1	5,122.8	−30.3
Maximum Deficit Amount	312.8	311.7	−1.1
Debt Subject to Limit	4,731.9	4,506.7	−225.2
Off-budget:			
Social Security Outlays:			
1994	274.8	274.8	(3)
1994–1998	1,486.5	1,486.5	(3)
Social Security Revenues:			
1994	336.3	336.2	−1.1
1994–1998	1,872.0	1,871.4	−0.6

[1] Reflects revised allocation under subject 9(g) of H. Con. Res. 64 for the Deficit-Neutral reserve fund.

[2] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[3] Less than $50 million.

Note.—Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONGRESS, 2D SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1994, AS OF CLOSE OF BUSINESS JUNE 16, 1994

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			905,429
Permanents and other spending legislation[1]	721,182	694,713	
Appropriation legislation	742,749	758,885	
Offsetting receipts	(237,226)	(237,226)	
Total previously enacted	1,226,705	1,216,372	905,429
ENACTED THIS SESSION			
Emergency Supplemental Appropriations, FY 1994 (P.L. 103–211)	(2,286)	(248)	
Federal Workforce Restructuring Act (P.L. 103–226)	48	48	
Offsetting receipts	(38)	(38)	
Housing and Community Development Act (P.L. 103–233)	(410)	(410)	
Extending Loan Ineligibility Exemption for Colleges (P.L. 103–235)	5	3	
Foreign Relations Authorization Act (P.L. 103–236)	(2)	(2)	
Marine Mammal Protection Act Amendments (P.L. 103–238)		4	
Airport Improvement Program Temporary Assistance Act (P.L. 103–260)	(65)		
Total enacted this session	(2,748)	(643)	0

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONGRESS, 2D SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1994, AS OF CLOSE OF BUSINESS JUNE 16, 1994—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted[2]	(5,562)	1,326	
Total Current Level[3, 4]	1,218,395	1,217,056	905,429
Total Budget Resolution	1,223,249	1,218,149	905,349
Amount remaining:			
Under Budget Resolution	4,854	1,093	
Over Budget Resolution			80

[1] Includes Budget Committee estimate of $2.4 billion in outlay savings for FCC spectrum license fees.

[2] Includes changes to baseline estimates of appropriated mandatories due to enactment of P.L. 103–66.

[3] In accordance with the Balanced Budget and Emergency Deficit Control Act of 1985, the total does not include $14,157 million in budget authority and $9,065 million in outlays in emergency funding.

[4] At the request of Budget Committee staff, current level does not include scoring of section 601 of P.L. 102–391.

Note.—Numbers in parentheses are negative. Detail may not add due to rounding.

HONORING THE 85TH BIRTHDAY OF COL. TOM PARKER

Mr. MATHEWS. Mr. President, I rise today to pay tribute to a great Tennessean, a man known as Col. Tom Parker who is remembered by most Americans for his work as manager for Elvis Presley. Colonel Parker celebrates his 85th birthday on June 29, and I join thousands of Tennesseans in sending him best wishes.

This week a grand celebration is planned in Las Vegas to recognize the colonel's birthday and his remarkable career in the music industry.

Prior to the well-known days of Elvis, Colonel Parker promoted many country acts and managed the careers of Eddy Arnold and Hank Snow. In fact, it was during one of Hank Snow's tours that Parker booked an obscure act that would one day fascinate the entire world: Elvis Presley.

It was Colonel Parker who set up the original RCA contract and established Elvis Presley Music. And it was the colonel who helped "The King" build a superstar career spanning more than two decades. For all the mystique of Elvis, Colonel Parker himself has become something of a legend.

A native of West Virginia and a well-seasoned traveler of the South, Parker comes by the honorary title of colonel through his membership in the Tennessee Militia. That honor was bestowed in 1954 when Frank Clement was Governor of Tennessee and I was a young assistant on the Governor's staff.

It is my pleasure to extend congratulations on this significant occasion of the 85th birthday of Col. Tom Parker.

Mr. President, I yield the floor.

TRIBUTE TO MAJ. MARIE THERESE ROSSI, USA

Mr. BRADLEY. Mr. President, I rise to pay tribute to the memory of a brave and dedicated American, Maj. Marie Therese Rossi. Article I of the Code of Conduct for members of the Armed Forces reads as follows: "I am an American fighting in the forces which guard my country and our way of life. I am prepared to give my life in their defense." No one more than Maj. Marie Therese Rossi understood what those words meant and all that they symbolize.

On March 1, 1991, Major Rossi, one of the first females to fly in the Persian Gulf war, was killed when her CH–177 transport helicopter crashed into an unlit Saudi Arabian microwave tower. Throughout her military career, Major Rossi had prepared for the time when her country would call upon her to make the ultimate sacrifice for the welfare of our Nation. Shortly before her fatal mission, she was interviewed by CNN on the perils of her mission. She simply replied, "This is the moment that everybody trains for * * * that I've trained for, so I feel ready to meet the challenge." With such a selfless attitude, she did, and her exemplary commitment to the United States of America and its people is to be commended.

Marie was born on January 3, 1959, to Paul J. and Gertrude Nolan Rossi in Teaneck, NJ. She was well known throughout her community for the compassion and love she gave to animals as a member of 4–H while she was a youth. To her troops, she displayed an unparalleled sense of caring which made them marvel at her impeccable qualities of character and integrity. As a leader, Major Rossi was demanding but not demeaning; she made it a point to lead by example.

After her commissioning through ROTC, she served at Fort Bliss, TX, as a battery executive officer, battalion adjutant, and commander of the reception station processing battery. From there, then-Captain Rossi graduated on the commandant's list from officer rotary wing aviators course in 1986. She was then assigned to the 213th Combat Aviation Company in South Korea, fully qualified in the CH–47 helicopter.

In June 1990, she was promoted to major and assigned as commander of B Company 2d Battalion, 159th Aviation Regiment, Hunter Army Airfield. On September 19, 1990, she deployed with her unit to Dhahran, Saudi Arabia.

Major Rossi was married less than a year to fellow soldier CWO Anderson Cayton. At her memorial service at Arlington National Cemetery, where she was buried with full military honors, he stated, "The Lord has given this country a hero. He has taken my Marie and the love we had for each other and given it to the hearts of this country."

Maj. Marie Therese Rossi, a military professional, loving wife, and proud

servicewoman, will be remembered not only for the contributions she has made to protect freedom and preserve liberty, but also for the exemplary way she lived her life as a true American. Her service reflects great credit upon herself, her unit, the U.S. Air Force, and the United States of America.

TRIBUTE TO GEORGE JOHN VAFINIS

Mr. HEFLIN. Mr. President, I want to pay tribute to a man who touched many lives in my hometown. Our friend, restaurant owner George John Vafinis, who died May 26, will be greatly missed by the people of Tuscumbia and Sheffield, where George's Steak Pit thrived for nearly 40 years.

George was native of Glassaskopelos, Greece, and a veteran of World War II and the Greek Navy, but Tuscumbians accepted him as one of their own.

George opened his first restaurant in 1956. This establishment quickly gained a reputation for its food, elegance, and charm. George always treated his employees and customers with professionalism, class, and respect. One employee described him as the best boss she ever had, and his customers thought just as highly of him. George had been retired from the restaurant business since 1983. He spent the last decade traveling often to his native Greece to visit friends and relatives.

I extend my heartfelt sympathies to George's wife Evangeline, and their entire family in the wake of their tremendous loss. We are thankful George chose to make his home in Tuscumbia. Our town will not be the same without him.

THE 50TH ANNIVERSARY OF THE GI BILL

Mr. HEFLIN. Mr. President, on June 22, we will celebrate the 50th anniversary of the signing of the Servicemen's Readjustment Act of 1944, known widely as the GI bill. When introduced, this landmark legislation was the focus of intense and heated debate, but the famed bill designed to assist World War II veterans returning to their homes and jobs has since come to be recognized as one of the most important pieces of domestic legislation ever signed into law. In fact, the GI bill has woven and shaped the fabric of our society as few pieces of legislation in our history have.

During the 50 years of the GI bill, the law has provided unprecedented access to education and training programs for millions of veterans, enhancing the quality of our work force and the quality of life for our workers. The law also made possible for these veterans the American dream of home ownership, transforming the majority of Americans from tenants and renters to homeowners. In return, the Nation has reaped many times its investment. The dramatic change in our society created a standard of living that was the envy of the postwar world.

Although it became law only 6 months after its introduction in Congress, many Members and educators had serious misgivings about its possible effects. Some felt it was too expensive and would encourage laziness among veterans. Still others feared an influx of veterans would lower standards in American higher education. Many veterans organizations themselves opposed the bill initially because they felt it was too sweeping and could jeopardize veterans getting any help at all. At the time, Congress had already failed to act on about 640 bills concerning veterans. But there was great pressure to enact a plan to offset the dire consequences predicted for the postwar years, and many of these and other objections proved to be unfounded.

President Roosevelt signed the bill into law on June 22, 1944, doing so in the presence of five American Legionnaires and several Members of Congress. The American Legion had been instrumental in designing the main features of the GI bill and paving its way through Congress.

Fifty years ago, few could have predicted the significant and lasting impact the GI bill has had. When signing the bill, President Roosevelt emphasized the Nation's obligation to its veterans but he could not have foreseen that the bill would change society so dramatically. In his statement, FDR said, "It gives emphatic notice to the men and women in our armed forces that the American people do not intend to let them down." Now, 50 years later, the legacy of that promise made and kept can be seen in the benefits to the country, and to the millions of brave veterans who served.

In the midst of the drive toward reforming our health care and welfare systems, and indeed reinventing the entire Federal Government, we can look to the GI bill as a shining example of what Government can accomplish when it does things right.

PRESIDENT CLINTON'S KOREA POLICY

Mr. D'AMATO. Mr. President, I rise today to comment on the truly incredible developments that have occurred in President Clinton's Korea policy, and I use the word "policy" loosely, since last week. I cannot recall, and no one I have spoken with can recall, a situation in which the abrupt collapse of a major U.S. international effort was caused by the personal intervention of a former President.

Here, former President Carter took the initiative to travel to North Korea to meet with Kim Il-sung after consulting with President Clinton and being briefed by high administration officials. Then, Mr. Carter engages in exchanges with Kim Il-sung in which he certainly sounds as if he were representing the United States, even though he claims it was a private trip. Finally, the representations that Mr. Carter makes to Kim Il-sung effectively short-circuit current United States policy toward North Korea.

Mr. President, I was under the distinct impression that the U.S. Constitution provides for only one person to hold the office of President of the United States at a time. Mr. Carter held that office once, but he has not been in office since January 1981. Mr. Clinton holds the office now.

I have the gravest objections, both on constitutional and substantive grounds, to Mr. Carter's intervention in U.S. policy. He had no authorization to speak for the United States on such a grave matter as our policy toward North Korea. Reportedly, Mr. Clinton did not delegate this authority to Mr. Carter, and Mr. Carter's actions reached far beyond the customary scope allowed any informal representative acting for the President in international situations.

This raises questions about the nature and degree to which Mr. Clinton is meeting his constitutional responsibility to conduct the foreign policy of the United States. In fact, the published descriptions of the way Mr. Carter's visit was prepared for and conducted, and how the administration reacted to it, paint such a picture of confusion and disarray in the foreign policy process as to be without parallel since the days of strongest internal dispute over the conduct of the Vietnam war. In fact, even then it appeared that one person—President Johnson—was clearly in charge, even though much maneuvering, carping, leaking, and conspiring was going on around him. Now, it is legitimate to ask whether anyone really is in charge.

Mr. President, I ask unanimous consent that a series of articles that appeared in the press concerning this issue be printed in the RECORD following my remarks. The articles are as follows: "U.S. Shift on Korea: Clinton Retreating From a Showdown," by Michael R. Gordon, the New York Times, Saturday, June 18, 1994, p.1; "Carter Visit to North Korea: Whose Trip Was It Really?" by David E. Sanger, the New York Times, Saturday, June 18, 1994 p. 6; "Carter Faulted by White House on North Korea: Policy Statements Cause Confusion on Sanctions," by R. Jeffrey Smith and Bradley Graham, the Washington Post, Saturday, June 18, 1994, p. A1; "Carter Trip May Offer 'Opening': White House Wary of Ex-President's View N. Korea 'Crisis Is Over,'" by R. Jeffrey Smith and Ruth Marcus, the Washington Post, Monday, June 20, 1994, page A1; "Mr. Carter's Trip," an editorial, the Washington Post, Monday, June 20, 1994, page A14;

and "U.S. Debates Shift on North Korea: Carter's Visit Derails Sanctions Drive," by R. Jeffrey Smith and Ann Devroy, the Washington Post, Tuesday, June 21, 1994, p. A1.

(See exhibit 1.)

Mr. D'AMATO. These articles, taken together, show why our allies question our resolve and our judgment in a wide range of foreign policy questions, not just North Korean policy. These articles document an absence of commitment to principle—any principle—and an absence of management of the policy process, that can only be described as breathtaking.

What are the principles this administration lives by and is willing to stand behind with blood, treasure, and steel, if necessary? These questions are being asked by our allies, but they are being answered by our enemies.

Mohammed Aideed, Slobodan Milosevic, General Cedras, and now Kim Il-song are providing the answers. These answers are dismaying our friends and emboldening our enemies. And I believe that if we do not see an abrupt and strong reversal of this disintegration of our foreign policy leadership, more of our enemies will decide to act, and sooner rather than later.

Mr. President, the price the people of the United States may have to pay to redeem American leadership—and with it, U.S. national security in a potentially hostile world—may be beyond the ability of the present administration to imagine. Moreover, if we do not pay the price when our enemies present the bill, we will find ourselves in retreat behind our ocean moats, facing a much diminished future for ourselves and our children.

This is the issue, and it demands an immediate and urgent response from a focused and committed President. He can start by obeying the old maxim, "when in charge, take charge." He has not, and we are beginning to comprehend what that means. It is not a question of "inside the beltway" maneuvering, it is a question of leadership and character. We will soon know, whether Mr. Clinton desires it or not, if he has the judgment and the strength to lead successfully when events are turning against him. For the sake of this Nation, we must pray that the answer is "yes."

EXHIBIT 1

U.S. SHIFT ON KOREA; CLINTON RETREATING FROM A SHOWDOWN

(By Michael R. Gordon)

WASHINGTON, June 17.—North Korea's latest offer to resolve the crisis over its nuclear program appears to include little that is new, but President Clinton's willingness to seize it as an opportunity to avoid a confrontation reflects an abrupt shift of policy.

The change says less about the prospects for a diplomatic resolution than it does about the Administration's apprehensions over a showdown and its difficulties in marshaling an international coalition for tough sanctions.

The White House got to the precipice of economic sanctions and sending military reinforcements, was nervous about what it saw and decided to take another crack at diplomacy, even though that meant backing away from a key condition for high-level negotiations. The condition was its insistence that North Korea insure that monitors be allowed to take measurements to determine whether Pyongyang has ever diverted plutonium for a nuclear weapon.

Administration officials say they are merely exploring new signs of flexibility on the part of the North Koreans, and argue that any agreement in which they would freeze their nuclear weapons program while high-levels tasks proceed would be a good bargain for the United States.

"As the President said yesterday, our policy has not changed one lota," said Anthony Lake, Mr. Clinton's national security adviser.

But the officials also acknowledged that the details of the North Korean proposal, which would allow international monitors to remain in North Korea as long as Washington made "good-faith efforts" to negotiate, remain to be clarified.

And they acknowledge that former President Jimmy Carter complicated the picture by asserting wrongly that Washington had stopped "sanction activity" in the United Nations, where the officials said the United States is still consulting with other nations on the possibility of sanctions.

But even supporters of the Administration's new approach say it represents a major change in Washington's stance.

Representative Gary L. Ackerman, the Queens Democrat who visited North Korea in October, said the Administration was right to try to follow up any opening that might have been created by Mr. Carter's diplomacy in Pyongyang. But Mr. Ackerman added that the North Korean statements, which the White House has hailed as signs of a new policy, reflected longstanding positions.

Mr. Ackerman said "almost everything" that the North Koreans had proposed had been floated before. "They have sold it to somebody new at a different time," he said, referring to Mr. Carter.

Some experts were more critical. "There has been a clear change in our position. We put our markers down, and now we are doing the very thing that we said was unacceptable," said Zalmay Khalilzad, the head of the Pentagon's office of policy planning in the Bush Administration. "When you state you won't do something and then you do it, it undermines your credibility."

DISPUTE BEGAN LAST YEAR

The controversy arose last year when the International Atomic Energy Agency determined that North Korea had produced more plutonium than it had acknowledged when it shut down its nuclear reactor at Yongbyon in 1989. The agency then sought to carry out additional inspections to confirm its findings.

The inspections were important because the Central Intelligence Agency believe that the North Koreans diverted enough plutonium for one or two bombs, while Pyongyang says it produced only a minute quantity of plutonium.

But the North Koreans balked at allowing the inspections.

That put the ball squarely in the Administration's court, which debated how to respond. Pentagon officials argued that it was more important to limit the North Korean program in the future than to resolve the mystery of the past diversion, but they were overruled.

Taking a resolute stance, the Administration vowed not to engage in high-level talks unless the North Koreans took steps to freeze their plutonium production and insure that monitors could take future measurements to determine whether and how much plutonium was diverged when the reactor was shut down in 1989.

U.S. DEMANDS IGNORED

But the North Koreans ignored the American demands.

In April, they shut down the Yongbyon reactor yet again and withdrew its fuel rods, destroying the evidence that inspectors needed to determine its past plutonium diversion.

In response, the Administration announced that it would seek economic sanctions and that it would not engage in high-level talks.

"This act undercuts the basis for our dialogue with North Korea," Robert Gallucci, the Assistant Secretary of State for Politico-Military Affairs, told the House Foreign Affairs on June 9. "We will not continue that dialogue until a reasonable basis for it can be reestablished."

Until Thursday, the Administration held to its position that North Korea had not offered a sufficient basis to resume high-level talks. But when North Korea repeated its interest in holding high-level talks to Mr. Carter, Washington's stance changed.

Mr. Clinton announced that American officials were now willing to engage in talks if North Korea would freeze its nuclear program by refraining from future processing of plutonium, refraining from refueling the reactor at Yongbyon and allowing international inspectors to stay at the Yongbyon site.

By exclusion it dropped its condition on making it possible to trace past plutonium diversion.

In effect, Washington went for the most risk-free approach. It put aside the policies that were difficult, that required the painful building of international coalitions and that raised the prospect of military intervention.

ANY HEADWAY UNCLEAR

By today, it was unclear whether headway was made. Pak Gil Yon, North Korea's representative to the United Nations, denied that North Korea would ever allow monitors to inspect its waste sites to try to determine the extent of its past plutonium diversion.

If the Administration's diplomatic gambit works, Washington will have succeeded in the short run in limiting—but not erasing—the North Korean nuclear menace.

But if it fails, the credibility of the Administration's foreign policy, already under question for flip-flops over China, Haiti and Somalia, may come under fire.

"I am not surprised that the North Koreans took the opportunity of the visit of a former President of the United States to 'send a message,'" Mr. Gallucci said today. "What we don't know really is the meaning of that message, and particularly what we don't know is whether the message they intend to send is really one in which one can see a desire in fact to reestablish a dialogue."

[From the New York Times, June 18, 1994]

CARTER VISIT TO NORTH KOREA: WHOSE TRIP WAS IT REALLY?

(By David E. Sanger)

SEOUL, SOUTH KOREA, Saturday, June 18—Completing his mission to North Korea, former President Jimmy Carter hugged the country's dictator on Friday and called the trip "a good omen," but immediately

touched off a squabble with the Clinton Administration over whether North Korea had specifically offered to freeze its nuclear weapons development project.

President Clinton and his advisers, who had originally said Mr. Carter was on a private trip and then became televised participants in the delicate talks with the North Korean leader, Kim Il Sung, clearly distanced themselves from the former President's initiative.

At times they seemed to openly contradict each other. On Friday, Mr. Carter told Mr. Kim that the White House had "stopped the sanction activity in the United Nations," where an American draft resolution has been circulating since Wednesday. But Administration officials quickly responded that they had done nothing of the kind, and questions swirled over whether North Korea had simply repackaged old proposals that Washington had already rejected.

Speaking to reporters in Chicago on Friday, Mr. Clinton said:

"The position is just exactly what it was yesterday. We are pursuing our sanctions discussion in the U.N. If the North Koreans meant yesterday when they said they would leave the inspectors and equipment there—if they meant they would cease their nuclear operations while talks went on, then we could have talks.

"But we have to go to sanctions if the violations continue."

VERIFICATION IS SOUGHT

The Administration's chief coordinator on Korean issues, Robert L. Gallucci, said he was trying to verify, through diplomatic channels, the exact meaning of Mr. Kim's vague promises to open up his country's nuclear facilities after high-level, official talks with Washington. Until they can determine that the promises constitute a new initiative, Mr. Gallucci said, "we are going to continue consultations in New York on a sanctions resolution.

Embracing Mr. Carter's efforts without endorsing its results, Mr. Gallucci said that "we will look at it very closely and if it is something on which we can build, we will try to build.

Similarly, Mr. Carter said that the Clinton Administration had "provisionally agreed" to go ahead with the high-level talks that North Korea has long demanded. But American officials said there would be no such talks unless they determined that Mr. Kim had actually agreed to freeze the North's nuclear program, assuring that it could not produce more weapons from the nuclear fuel it recently extracted from its largest reactor.

Still, there were unconfirmed reports that Mr. Gallucci may soon meet a senior North Korean official.

There was considerable suspicion that Mr. Kim may have given up considerably less than Mr. Carter's optimistic tone would suggest. Mr. Kim's offer to allow two United Nations inspectors to remain in the country did constitute progress, but merely preserved the status quo ante. Many of his other offers were repackaged proposals that the Administration had previously found unacceptable.

OPPORTUNITIES AND RISKS

In Seoul, officials said that Mr. Carter's trip offered some new opportunities, but was also filled with risks and they clearly feared that Mr. Carter was not in command of the complexities of North-South relations.

"I think that the U.S. has the same view we do, a mix of concern and expectation," a top South Korean official said today.

The White House had approved and even encouraged the Carter visit, but American officials said they had viewed the Carter mission as an attempt to gain a clearer picture of North Korea's position and had not expected to get swept into negotiations that were being carried out on television.

Taken by surprise by Mr. Carter's comments on Thursday, Secretary of State Warren Christopher woke up several Foreign Ministers in Asia to try to craft a response before Mr. Carter went in for another negotiating session with Mr. Kim.

Chosun Ilbo, one of South Korea's most prominent newspapers, said in the edition prepared for Saturday that South Korea "could not hide the bewilderment at such a turn of events.

"There is nothing new in the North Korean proposal," it said. It added that "for an administration that has been emphasizing its close cooperation with Washington, it was difficult to hide its dissatisfaction with Clinton" for speaking before sorting out the North's intentions.

Still, the hope is that Mr. Kim's statements, particularly as they filter down through the tightly controlled North Korean Government, will end the cycle of threats and counterthreats that have escalated tensions in recent weeks. If the effort fails, one American official here noted tonight, "we can turn the sanctions back on fairly quickly."

The fact of the matter is that Mr. Clinton has time. It will likely take weeks to get the sanctions resolution through the Security Council, and then a 30-day grace period kicks in before the first, mild steps are implemented.

American and South Korean officials believe that no diversion of the fuel extracted last month from the reactor is possible for at least another month or two. Until that time the fuel rods are too radioactive to handle. After that point, however, experts estimate that the rods could be reprocessed into bomb-grade plutonium in a matter of months.

[From the Washington Post, June 18, 1994]

CARTER FAULTED BY WHITE HOUSE ON NORTH KOREA; POLICY STATEMENTS CAUSE CONFUSION ON SANCTIONS

(By R. Jeffrey Smith and Bradley Graham)

The Clinton administration yesterday disowned statements by Jimmy Carter in North Korea, saying the former president evidently had misstated U.S. policy despite earlier consultations between Carter and officials in Washington.

In an embarrassing split, administration officials said they could not explain why Carter said in North Korea the United States had dropped its recent proposal for sanctions against the country, a day after President Clinton had said the diplomatic drive for sanctions would continue.

"We have no way of knowing why he thought what he thought, or why he said what he said," a senior official said.

Senior U.S. officials also said Carter apparently had misled the North Koreans by telling them Clinton had already agreed to hold new high-level diplomatic talks over the isolated country's nuclear program.

Clinton, Vice President Gore, national security adviser Anthony Lake and Assistant Secretary of State Robert L. Gallucci each went to considerable lengths yesterday to say Washington is still pursuing its sanctions drive even as it explores new prospects for dialogue with the hard-line communist state.

Clinton, asked during a trip to Chicago about the seemingly mixed signals sent by Carter and Washington, said, "We worked all day long [Thursday] on a very clearly and carefully worded statement so that our position could not be misunderstood by [the North Koreans] or anyone else, and it is the same position today."

Clinton left open the possibility Carter's statement about sanctions—in a brief appearance carried by CNN—could have been misinterpreted.

In the presence of a television crew, Carter said to North Korean President Kim Il Sung, "I would like to inform you that they [the United States] have stopped the sanctions activity in the United Nations," which Washington had begun only on Tuesday. CNN reported Carter told Kim he was passing on the message after consultations with the White House.

Clinton noted, "There was no question and answer, there was no clarification." Other officials said they had not had a chance to talk with Carter yesterday to check the remarks. But, for the second day in a row, U.S. officials privately expressed anguish over Carter's public remarks during his visit as a private citizen to the North Korean capital of Pyongyang at the invitation of the government there. "We would not have scripted it this way," a U.S. official said.

While publicly welcoming an unexpected North Korean concession to Carter on Thursday—in which North Korea promised not to eject international inspectors from a sensitive nuclear site—the officials had been privately scathing that the former Democratic president would so embarrass his successor by challenging his policy at a highly sensitive moment.

The official said that on Thursday Lake and Gallucci had read to Carter over the telephone the text of an official statement worked out by the administration in response to the North Korean concession that made clear Washington was "continuing to consult on our sanctions resolution at the [U.N.] Security Council."

Officials said during Lake's telephone call with Carter on Thursday evening [Washington time], Carter had made clear he was not happy with that policy. U.S. officials said both men knew the conversation was subject to North Korean eavesdropping.

Carter "wanted to see more give in our position," the official said. But Lake "made clear to him" in the 20-minute conversation that the position was firm.

"Carter is hearing what he wants to hear, both from Kim Il Sung and from the administration. He is creating his own reality," said a senior U.S. official, who spoke on condition he remain unidentified.

Asked if the scrambled signals could undermine U.S. policy or reflect poorly on Clinton's handling of the dispute with North Korea, another senior official said caustically that "the implications are for Carter and what does it say about Jimmy Carter, not what does it say about Bill Clinton."

In a related development, Defense Secretary William J. Perry and Gen. John Shalikashvili yesterday briefed members of Congress on military preparations in light of tensions over Korea. They hoped to calm concerns on Capitol Hill about the readiness of U.S. forces in South Korea. Senators and representatives emerged generally satisfied about the steps so far but somewhat divided over the extent to which the Clinton administration should move now to reinforce American troops in Korea.

"Some members are pressing for more decisive action," said a congressional source

who attended the briefing. "But others contend we must be careful not to take military measures that would eliminate our diplomatic maneuvering room."

In weighing how quickly and how much to bolster American forces in Korea, administration officials worry about provoking a North Korean invasion but also worry about not doing enough to guard against attack.

After weeks of intensive planning, the Pentagon has drafted several options for building up U.S. military assets in the region, ranging from a minimum of sending support personnel to a maximum of dispatching squadrons of fighters and bombers as well as an additional aircraft carrier to supplement the one normally based in Japan.

Carter, who has regularly stepped in to try to help resolve diplomatic disputes since his defeat by Ronald Reagan in the 1980 elections, told acquaintances before his departure for North Korea that he wanted to try to head off what he feared could be an unwarranted slide toward devastating conflict there.

The dispute stems from a clash between the International Atomic Energy Agency, a U.N.-affiliated nuclear proliferation watchdog, and North Korea over promised inspections of the country's suspected nuclear weapons program.

The dispute became more serious earlier this month, when North Korea defied IAEA demands to conduct tests critical to assessing whether North Korea in the past had sought to build nuclear weapons. Washington then decided to seek a series of gradually escalating sanctions that North Korea claims would be an act of war.

When Carter first informed Washington of his desire to accept the North Korean invitation, officials were divided about whether to try to talk him out of it.

Gallucci said Carter would be questioned by U.S. officials this weekend, after leaving North Korea, and that Washington would then attempt to confirm his account of North Korea's position through routine diplomatic channels next week as a prelude to possible high-level talks.

Only if North Korea meets a series of U.S. conditions will the talks go forward, and the U.S. sanctions effort be suspended, Gallucci said.

As diplomatic strains have grown with North Korea, the United States so far has taken relatively limited military measures aimed essentially at improving defensive capabilities. These include delivery to South Korea this spring of six Patriot anti-missile batteries, and an increase in intelligence personnel and equipment in—and over—Korea.

A number of other significant improvements in the firepower and mobility of U.S. forces have occurred in recent months as part of a new war plan adopted several years ago before tensions began to rise. These have included dispatch of Apache attack helicopters, Bradley Fighting Vehicles and counter-battery radar.

But, in contrast to the buildup that marked the faceoff between the Bush administration and Iraqi President Saddam Hussein in 1990, the Clinton administration has taken pains to keep its latest reinforcement efforts as low-key as possible. Four years ago, the United States was hoping to scare Saddam into pulling his forces out of Kuwait rather than risk war. This time, U.S. officials are afraid of scaring a paranoid North Korean leadership into invading the South.

"We have to be careful that we don't propel ourselves into a war we're trying to prevent," Adm. Charles R. Larson, commander-in-chief of U.S. forces in the Pacific, told a naval conference in Newport, R.I., this week.

[From the Washington Post, June 20, 1994]

CARTER TRIP MAY OFFER "OPENING:" WHITE HOUSE WARY OF EX-PRESIDENT'S VIEW—NORTH KOREA "CRISIS IS OVER"

(By R. Jeffrey Smith and Ruth Marcus)

The Clinton administration yesterday offered an upbeat appraisal of the controversial visit by former president Jimmy Carter to North Korea, saying it may have produced "an opening" in stalled efforts to resolve a dispute over that country's nuclear program.

Assistant Secretary of State Robert L. Gallucci, the senior U.S. envoy on North Korean nuclear matters, offered this assessment after a two-hour briefing by Carter for senior officials at the White House. During the briefing, Carter also spoke by telephone for 30 minutes with President Clinton, who was at Camp David.

Gallucci, at a news briefing, repeated the administration's position that Washington needs to verify the specifics of North Korea's reported offer to Carter to freeze its nuclear program in exchange for new high-level talks with the United States.

Gallucci also declined to endorse Carter's statement outside the White House after his briefing that "the crisis is over." But Gallucci's assessment, while guarded, was more optimistic than the tentative stance that he and other administration officials adopted before hearing from Carter face-to-face.

"It may be well that President Carter has brought back something upon which we can build and defuse the situation," Gallucci said, explaining that his conclusion was based on hearing new deals of the visit. "The characterization I'm comfortable with is that there may be an opening here."

Gallucci took pains to make clear that "certainly, we're very appreciative of President Carter's good efforts" to resolve the standoff over inspections by key nuclear facilities, apparently seeking to smooth over criticism by some officials of Carter's statements about U.S. policy in North Korea earlier in the week. "I think we are all on the same sheet of music," Gallucci said.

As Gallucci was briefing at the White House, however, Carter was telling reporters in a suite at a nearby hotel that he felt the administration's policy on Korea had been misguided and that he undertook the four-day visit to rescue Washington from a precipitous slide toward a devastating new war on the Korean peninsula.

Carter told reporters that in his view, the administration was wrong to put forward a proposal last week for gradually escalating U.N. sanctions to punish past North Korean intransigence on international inspections of its nuclear facilities. He said sanctions would be "a direct cause of potential war" and would not block North Korea's access to desired foreign trade or nuclear technology.

Carter said he has been unable to reconcile his views of the dispute with that of "so-called experts" in the administration who assert North Korea will bend under the threat of sanctions to allow the required inspections. "The experts who briefed me before I left have never been to North Korea," he noted caustically.

In commenting on his brief visit, which came after a series of invitations from North Korea, Carter offered a strikingly uncritical assessment of the country and its autocratic leaders.

"People were very friendly and open," he said, and had refrained from leveling any criticism at South Korea, something that he said had appeared "quite interesting." He called the capital of Pyongyang, which U.S. intelligence officials have said experiences periodic blackouts from energy shortages, a bustling city with shops that looked like "Wal-Mart in Americus, Georgia," and that the neon lights at night reminded him of Times Square.

"I don't feel as if I have been duped," he said, explaining that "the proof is in the pudding" because North Korea must now make good on a promise to him by President Kim Il Sung that its nuclear program will be frozen during new high-level negotiations with Washington.

This means, Carter said, that the country will not eject the last two international inspectors from a key nuclear complex and will not produce new plutonium. But he said he was not sure if it also meant the country would agree to not refueling a reactor suited to plutonium production, a condition set out by Washington for new talks that Carter said in an "oversight" he had neglected to mention.

Carter first met alone yesterday with national security adviser Anthony Lake, who was a senior official in Carter's State Department. The meeting then expanded to include Gallucci, Assistant Secretary of State Winston Lord, deputy national security adviser Samuel R. "Sandy" Berger and national security council staffer Daniel B. Poneman.

Gallucci said his optimistic appraisal of the results of Carter's visit was based on what Carter had depicted as North Korea's apparent interest in "genuinely decommissioning and putting aside" nuclear reactor technology suited to the production of plutonium, a key ingredient of nuclear arms.

Gallucci also cited Carter's assertion of North Korea's general interest in "improving relations and meeting international standards" in the nuclear field, as well as its possible willingness to settle U.S. questions about its past plutonium production "in the context of an overall settlement" of all major disputes with Washington.

"There's much that could be there, and . . . we need to determine whether it is there," Gallucci said.

But House Foreign Affairs Committee Chairman Lee Hamilton (D-Ind.), speaking later on CNN's "Late Edition," expressed more skepticism than Carter about the results of the trip. He said he disagreed with Carter's assessment that the Korean crisis was resolved, explaining that "the fundamentals really have not changed. . . . North Korea is still not living up to its commitments. . . . There is no real concession on their part at this point."

Former Secretary of State Lawrence S. Eagleburger, appearing on the same program, was biting in his criticism of Carter. "I really wish he'd stayed home," Eagleburger said. He said he was "horrified" to hear Carter "taking the word of this murderer who runs North Korea," and that North Korea still had not complied with international inspection demands.

Carter said he was taken aback by the criticism of his visit, but that Clinton had told him during the telephone call that "he was very grateful that I had gone and he thought it was a very fine accomplishment."

Carter confirmed that the State Department had dissuaded him from traveling to North Korea on two prior occasions, but said Clinton had signaled his approval for the trip in a message relayed from Europe by Vice President Gore on June 6.

By Carter's description, his decision to proceed came after a three-hour briefing by Gallucci in Atlanta convinced him that sanctions could lead to war. "I was distressed to realize we were approaching the possibility of a major confrontation . . . and that there was no avenue of communication that I could ascertain that might lead to a resolution," Carter said.

After a series of additional briefings in Washington, including a chat with Lake, Carter flew to Seoul on June 12 with his wife Rosalynn and two aides from his policy center in Atlanta. Carter said he found South Korean officials there "concerned about my visit" but that the U.S. military commander in Korea, Gen. Gary Luck, gave a "very positive reaction."

Carter emphasized he was never authorized to convey any message to North Korea from the administration, and had not been recruited to play a "good cop" to the "bad cop" image of Washington's sanctions drive.

But he indicated he clearly viewed himself as a mediator in the dispute who could broker a solution that would stave off war. On Wednesday, when the trip appeared to be going badly, he dispatched an aide and former U.S. diplomat, Marion Creekmore, to the border with South Korea carrying a letter for transmission to Clinton pleading for a U.S. compromise that could lead to new negotiations.

The letter was never sent because on Wednesday and Thursday, Carter said, Kim accepted his proposal that the North Korean nuclear program be frozen as a condition of new high-level talks and also said he was willing to move toward eventual denuclearization of the entire peninsula under a stalled 1991 accord with South Korea.

Carter also disclosed that Kim had suggested that North and South Korea make substantial troop reductions along their border and engineer a pullback of weaponry under some form of inspections. He also said that at the urging of Kim's wife, Kim had accepted Carter's proposal of joint U.S. North Korean searches for remains of U.S. servicemen buried by U.S. troops during the Korean conflict.

"I don't think that they are an outlaw nation," Carter said. "Obviously they've done some things in the past that we condemn. They have their own justification for them and I won't go into that . . . But this is something that's not for me to judge."

Carter apologized for the confusion caused by his televised claim from North Korea on Friday that Washington had "stopped the sanctions activity in the United Nations" in response to an apparent North Korean concession on the inspection issue. Administration officials had said the remark conflicted with what Lake had told Carter in a telephone conversation earlier that day.

But Carter, who had spoken with Lake around 5 a.m. local time in Korea, told reporters he did not recall hearing that pledge. "I regret that misunderstanding," he said. "It was my fault" because his televised claim that sanctions work had been suspended did not make clear he was expressing his personal view, rather than administration policy.

[From the Washington Post, June 20, 1994]

MR. CARTER'S TRIP

That was an astonishing trip that Jimmy Carter made to North Korea. He went in on his status as a former American president but conducted himself as an above-the-fray mediator trying to keep two heedless parties from going over the brink to war. Or perhaps only one heedless party: the United States. Mr. Carter seems to take at face value much of the stated position of North Korea and its "Great Leader," dictator, aggressor and terrorist Kim Il Sung, whom he found a rather reasonable and pleasant fellow.

At one point he appeared to be committing the U.S. government to a no-sanctions policy. The resulting uproar produced assertions that he was not speaking for the United States at all. But he kept on repeating his view that sanctions are wrong: wrong not because they would inflict economic pain—the Koreans could bear up fine, Mr. Carter believes—but because they embody an insult to Kim Il Sung so offensive that they would provoke him to war, and wrong because North Korea has done nothing proven in its nuclear development to warrant being stigmatized as an outlaw nation. So much for anyone else's concern that North Korea is a chronic cheater on its anti-proliferation vows.

Still, the Clinton administration was smart to keep its cool. The shrewd Kim Il Sung may have been using Jimmy Carter as a cover for making policy adjustments he did not care to make directly to Bill Clinton. An offer of a nuclear freeze, another teasing reference to inspection, resumption of U.S.-North Korean talks, a proposal of a first North Korean summit with South Korea: these items are chips in play on an extended bargaining table. But as offered by Kim Il Sung, they serve a strategy of seeking advantage from the United States—a guarantee against attack, a return to international society, a recognition of North Korea's place and pride—without surrendering the nuclear option.

The United States needs something very different: to make sure North Korea gets off the nuclear road. On this crucial requirement, Mr. Carter has drawn no rabbit out of the hat. The crisis is not, as he says, over. We are still no closer to knowing whether North Korea means to comply with international nonproliferation pledges or to play for time. This is what President Clinton must keep foremost in mind as he continues a negotiation that has been complicated but perhaps also loosened by Jimmy Carter's intervention.

[From the Washington Post, June 21, 1994]

U.S. DEBATES SHIFT ON NORTH KOREA: CARTER'S VISIT DERAILS SANCTIONS DRIVE

(By R. Jeffrey Smith and Ann Devroy)

The Clinton administration scrambled yesterday to find a fresh strategy for dealing with North Korea after former president Jimmy Carter's visit there derailed a U.S. drive for economic sanctions to punish that country for its suspected nuclear weapons program.

After being criticized last week by Carter for trying to be too tough on North Korea, and by prominent conservatives for acting too weakly toward the hard-line communist states, senior U.S. officials met at the White House with nearly a dozen independent experts to hear advice about what the policy should be.

But the meeting produced no clear road map, as "there were divisions" among the participants that were not resolved, an administration official said.

The administration also put on hold its plans to contact the North Korean regime immediately in the aftermath of Carter's briefing of the White House over the weekend on the results of his four-day visit.

Although the administration had said last week it would seek to confirm the results of the visit through diplomatic channels, "we have not made a decision yet about the best way to do that," a senior official said. He said the contact with North Korea is still likely to be initiated this week.

Officials said President Clinton and national security adviser Anthony Lake were among those who attended the unannounced White House seminar, which featured as guest lecturers a gaggle of former diplomats under presidents George Bush and Ronald Reagan as well as several academic experts and recent visitors to North Korea besides Carter.

Most of those picked for the group had been critical of what the administration has done so far to try to stop North Korea's nuclear program. "It's basically all the guys who have been trashing us in op-ed pieces," including both liberals and conservatives, said one official.

An official described the session as an effort to "get a sense of whether there is a consensus on how to proceed. We are simply getting their perspective on what they think is the situation and what our course should be." Another official said Lake also wanted to explain to the group the rationale behind the administration's actions so far.

Several officials said the administration's decision to seek outside advice underscored the confusion provoked by the results of Carter's visit, which produced a North Korean promise to Carter that the country would freeze its plans to accumulate more plutonium—a key ingredient of nuclear arms.

As relayed by Carter, North Korea's promise was conditioned on Washington's acceptance of immediate high-level, bilateral negotiations between Washington and Pyongyang. Such talks would effectively sideline the recent U.S. proposal for mild economic and other sanctions to punish North Korea for its past intransigence on nuclear matters.

The administration had maintained for weeks that these talks would not occur if North Korea withdrew spent nuclear fuel from its 25-megawatt reactor at the Yongbyon nuclear complex. The demand reflected Washington's desire for international inspectors to get a look at the fuel to assess the country's past production of plutonium, as well as U.S. concern that the fuel could be used to produce enough plutonium for four or five nuclear weapons.

But North Korea withdrew the fuel without inspectors present, prompting Washington to press for sanctions and Carter to depart for the North Korean capital to head off what he feared was a likely war. Both before and after his visit, he publicly condemned Washington for its aloof style of dealing with North Korea, and criticized the U.S. push for sanctions.

Officials said Carter's criticisms had provoked internal discussion of whether the administration should seek to confirm the results of his visit by opening a new high-level channel of contacts with North Korea, use an existing lower-level channel, or simply write a letter.

An official indicated the administration's confusion reflected in part some uncertainty about whether North Korea's pledges to Carter are sincere. He said the consensus at the White House broke down like this: "There is maybe a 15 percent chance the whole world caught a break because the North Koreans could make concessions to someone not in the government—Carter—that they could not make with us. There is a 35 percent chance that it was pure stalling

[while North Korea prepares to make more bombs] and maybe a 50 percent chance that it is really an opening [though not a breakthrough] that we can exploit now to achieve the results we all want."

Another factor in the administration's desire for fresh advice was the controversy created by some of Carter's statements about his trip. While Carter may get credit for finding a way for both Washington and Pyongyang to step back from confrontation, several diplomatic analysts questioned his description of the North Korean capital as bustling and neon-lit, combined with his refusal to criticize a regime accused of terrorism and human rights abuses.

"If Carter is right, everything we have been told about North Korea for 40 years is wrong," one former U.S. official said.

Carter "was very effectively used by Kim Il Sung to dissipate the pressure for sanctions and split the coalition" that Washington has been trying to build, said a former high-ranking diplomat who served in Democratic and Republican administrations.

Attending the seminar from the administration were Lake, deputy national security adviser Samuel R. "Sandy" Berger, Secretary of State Warren Christopher, Secretary of Defense William J. Perry and other senior officials. The outside experts included former ambassador to China James Lilly, former ambassador to South Korea Donald Gregg, and former undersecretary of state Arnold Kantor.

Others attending were Sandy Specter and Selig Harrison from the Carnegie Endowment, Alan Romberg from the U.S. Institute for Peace, and Asia scholar Michael Oxenberg.

In other fallout yesterday from Carter's visit, South Korea asked North Korea for a meeting on June 28 to discuss plans for a first-ever summit meeting between their presidents, aimed at reducing nuclear tensions on the peninsula, Reuter reported. Carter brought back from Pyongyang a message from North Korean President Kim Il Sung proposing a meeting with his southern counterpart, Kim Young Sam.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

AUTHORIZING OVERSIGHT HEARINGS BY THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 9:30 a.m. having arrived, the Senate will now proceed to the consideration of Senate Resolution 229, which the clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 229) authorizing oversight hearings by the Committee on Banking, Housing, and Urban Affairs.

The Senate proceeded to consider the resolution.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Kansas, the Republican leader, or his designee is recognized to offer amendment numbered 1818.

Mr. D'AMATO. Mr. President, I was under the impression that the amendment has been offered.

AMENDMENT NO. 1818

(Purpose: To propose a substitute)

Mr. D'AMATO. Mr. President, if that is not the case, on behalf of the Republican leader, Senator DOLE, and myself, I submit the following amendment and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for Mr. DOLE for himself and Mr. D'AMATO, proposes an amendment numbered 1818.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike all after the resolving clause and insert in lieu thereof the following:

SECTION 1. SCOPE OF THE HEARINGS.

The Committee on Banking, Housing, and Urban Affairs (referred to as the "committee") shall—

(1) conduct an investigation into, and study of, all matters that have a tendency to reveal the full facts about:

(A) allegations of improper contacts or communications between and among officials of the White House, the Department of the Treasury, Resolution Trust Corporation, and Office of Thrift Supervision;

(B) the Park Service Police investigation into the death of White House Deputy Counsel Vincent Foster;

(C) the handling and disposition of documents in the office of White House Deputy Counsel Vincent Foster at and after the time of his death; and

(D) any other activity, circumstance, material or transaction having a tendency to prove or disprove that any official of the United States Government or any other person acting either individually or in concert with others engaged in any activity that was illegal, improper, unauthorized or unethical in connection with any activity related to Whitewater Development Corporation, Madison Guaranty Savings and Loan Association, and Capital Management Services, Inc. occurring on or after January 20, 1993; and

(2)(A) make such findings of fact as are warranted and appropriate;

(B) make such recommendations, including recommendations for new legislation and amendments to existing laws and any administrative or other actions, as the committee may determine to be necessary or desirable; and

(C) fulfill the Constitutional oversight and informing function of the Congress with respect to the matters described in this section.

The hearings authorized by this resolution shall begin on a date determined by the Majority Leader, in consultation with the Minority Leader, but no later than the earlier of July 22, 1994, or within 30 days after the conclusion of the first phase of the independent counsel's investigation.

SEC. 2. MEMBERSHIP, ORGANIZATION, AND JURISDICTION OF THE COMMITTEE FOR PURPOSES OF THE HEARINGS.

(a)(1) For the sole purpose of conducting the investigation and study authorized by this resolution, the committee shall consist of—

(A) the members of the Committee on Banking, Housing, and Urban Affairs, who shall, in serving as members of the committee, reflect the legislative and oversight interests of other committees of the Senate with a jurisdictional interest (if any) in the investigation and study authorized in paragraph (1) of section 1 as provided in subparagraph (B);

(B)(i) Senator Kerry and Senator Bond from the Committee on Small Business;

(ii) Senator Riegle and Senator Roth from the Committee on Finance;

(iii) Senator Shelby and Senator Domenici from the Subcommittee on Public Lands, Parks, and Forests of the Committee on Energy and Natural Resources;

(iv) Senator Moseley-Braun from the Committee on the Judiciary; and

(v) Senator Sasser and Senator Roth from the Permanent Subcommittee on Investigations; and

(C) the ranking member of the Committee on the Judiciary, or his designee, who shall serve for purposes of considering matters within the jurisdiction of the Committee on the Judiciary, but shall not serve as a voting member of the committee.

(2) For the purpose of paragraph 4 of rule XXV of the Standing Rules of the Senate, service of the ranking member of the Committee on the Judiciary as a member of the committee shall not be taken into account.

(b) The jurisdiction of the committee shall encompass the jurisdiction of the committees and subcommittees listed in subsection (a)(1)(B), to the extent, if any, pertinent to the investigation and study authorized by this resolution.

(c) A majority of the members of the committee shall constitute a quorum for reporting a matter or recommendation to the Senate, except that the committee may fix a lesser number as a quorum for the purpose of taking testimony before the committee or for conducting the other business of the committee as provided in paragraph 7 of rule XXV of the Standing Rules of the Senate.

SEC. 3. ADDITIONAL STAFF AND ASSISTANCE FOR THE COMMITTEE.

(a) The committee, through the chairman, may request and use, with the prior consent of the chairman of any committee or subcommittee listed in section 2(a)(1)(B), the services of members of the staff of such committee or subcommittee.

(b) To assist the committee in its investigation and study, the chairman, after consultation with the ranking member and the approval of the committee, shall appoint additional committee staff. The level of compensation payable to any such additional employee shall not be subject to any limitation on compensation otherwise applicable to an employee of the Senate.

(c) To assist the committee in its investigation and study, the Senate Legal Counsel and Deputy Senate Legal Counsel shall work with and under the jurisdiction and authority of the committee.

(d) The Majority and Minority Leaders of the Senate may each designate one staff person to serve on the staff of the committee to serve as their liaison to the committee.

(e) The Comptroller General of the United States is requested to provide from the General Accounting Office whatever personnel, investigatory, material, or other appropriate

assistance may be required by the committee.

SEC. 4. PUBLIC ACTIVITIES OF THE COMMITTEE.

(a) Consistent with the rights of persons subject to investigation and inquiry, the committee shall make every effort to fulfill the right of the public and the Congress to know the essential facts and implications of the activities of officials of the United States Government with respect to the matters covered by the investigation and study as described in section 1.

(b) In furtherance of the public's and Congress' right to know, the committee—

(1) shall hold, as the chairman (in consultation with the ranking member) considers appropriate and in accordance with paragraph 5(b) of rule XXVI of the Standing Rules of the Senate, open hearings subject to consultation and coordination with the independent counsel appointed pursuant to title 28, parts 600 and 603, of the Code of Federal Regulations (referred to as the "independent counsel");

(2) may make interim reports to the Senate as it considers appropriate; and

(3) shall, in order to accomplish the purposes set forth in subsection (a), make a final comprehensive public report to the Senate of the findings of fact and any recommendations specified in paragraph (2) of section 1.

SEC. 5. POWERS OF THE COMMITTEE.

(a) The committee shall do everything necessary and appropriate under the laws and Constitution of the United States to make the investigation and study specified in section 1.

(b) Except as provided in subsection (c), the committee is authorized to exercise all of the powers and responsibilities of a committee under rule XXVI of the Standing Rules of the Senate and section 705 of the Ethics in Government Act of 1978 (2 U.S.C. 288d), including the following:

(1) To issue subpoenas or orders for the attendance of witnesses or for the production of documentary or physical evidence before the committee. A subpoena may be authorized by the committee or by the chairman with the agreement of the ranking member and may be issued by the chairman or any other member designated by the chairman, and may be served by any person designated by the chairman or the authorized member anywhere within or without the borders of the United States to the full extent permitted by law. The chairman of the committee, or any other member thereof, is authorized to administer oaths to any witnesses appearing before the committee.

(2) To employ and fix the compensation of such clerical, investigatory, legal, technical, and other assistants as the committee considers necessary or appropriate.

(3) To sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate.

(4) To hold hearings for taking testimony under oath or to receive documentary or physical evidence relating to the matters and questions it is authorized to investigate or study.

(5) To require by subpoena or order the attendance, as witnesses before the committee or at depositions, of any person who may have knowledge or information concerning any of the matters the committee is authorized to investigate and study.

(6) To take depositions and other testimony under oath anywhere within the United States or in any other country, to issue orders by the chairman or any other member designated by the chairman which require witnesses to answer written interrogatories under oath, to make application for issuance of letters rogatory, and to request, through appropriate channels, other means of international assistance, as appropriate.

(7) To issue commissions and to notice depositions for staff members to examine witnesses and to receive evidence under oath administered by an individual authorized by local law to administer oaths. The committee, acting through the chairman, may authorize and issue, and may delegate to designated staff members the power to authorize and issue, commissions and deposition notices.

(8) To require by subpoena or order—

(A) any department, agency, entity, officer, or employee of the United States Government,

(B) any person or entity purporting to act under color or authority of State or local law, or

(C) any private person, firm, corporation, partnership, or other organization,

to produce for its consideration or for use as evidence in the investigation or study of the committee any book, check, canceled check, correspondence, communication, document, financial record, paper, physical evidence, photograph, record, recording, tape, or any other material relating to any of the matters or questions such committee is authorized to investigate and study which they or any of them may have in their custody or under their control.

(9) To make to the Senate any recommendations, including recommendations for criminal or civil enforcement, which the committee may consider appropriate with respect to—

(A) the willful failure or refusal of any person to appear before it, or at a deposition, or to answer interrogatories, in obedience to a subpoena or order;

(B) the willful failure or refusal of any person to answer questions or give testimony during his appearance as a witness before such committee, or at a deposition, or in response to interrogatories; or

(C) the willful failure or refusal of—

(i) any officer or employee of the United States Government,

(ii) any person or entity purporting to act under color or authority of State or local law, or

(iii) any private person, partnership, firm, corporation, or organization,

to produce before the committee, or at a deposition, or at any time or place designated by the committee, any book, check, canceled check, correspondence, communication, document, financial record, paper, physical evidence, photograph, record, recording, tape, or any other material in obedience to any subpoena or order.

(10) To procure the temporary or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)).

(11) To use on a reimbursable basis, with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration of the Senate, the services of personnel of such department or agency.

(12) To have access through the agency of any members of the committee, staff director, chief counsel, or any of its investigatory assistants designated by the chairman, to any data, evidence, information, report, analysis, document, or paper—

(A) which relates to any of the matters or questions which the committee is authorized to investigate or study;

(B) which is in the custody or under the control of any department, agency, entity, officer, or employee of the United States Government, including those which have—

(i) the power under the laws of the United States to investigate any alleged criminal activities or to prosecute persons charged with crimes against the United States; or

(ii) the authority to, or which in fact has, conducted intelligence gathering or intelligence activities,

without regard to the jurisdiction or authority of any other Senate committee; and

(C) which will aid the committee to prepare for or conduct the investigation and study authorized and directed by this resolution.

(13) To report violations of any law to the appropriate Federal, State, or local authorities.

(14) To expend, to the extent the committee determines necessary and appropriate, any moneys made available to such committee by the Senate to make the investigation, study, and reports authorized by this resolution.

(c) The committee shall have no power under section 6005 of title 18, United States Code for immunizing witnesses.

(d)(1) Subject to the provisions of paragraph (2), the committee shall be governed by the rules of the Committee on Banking, Housing, and Urban Affairs, except that the committee may modify its rules for purposes of the investigation and study conducted under this resolution. The committee shall cause any such amendments to be published in the Congressional Record.

(2) The committee's rules shall be consistent with the Standing Rules of the Senate and this resolution.

SEC. 6. RELATION TO OTHER INVESTIGATIONS.

In order to—

(1) expedite the thorough conduct of the investigation and study authorized by this resolution;

(2) promote efficiency among all the various investigations underway in all branches of the United States Government; and

(3) engender a high degree of confidence on the part of the public regarding the conduct of such hearing,

the committee is encouraged—

(A) to obtain relevant information concerning the status of the independent counsel's investigation to assist in establishing a hearing schedule for the committee;

(B) to coordinate, to the extent practicable, its activities with the investigation of the independent counsel;

(C) to seek the full cooperation of all relevant investigatory bodies; and

(D) to seek access to all information which is acquired and developed by such bodies.

The Senate requests that the independent counsel make available to the committee, as expeditiously as possible, all documents and information which may assist the committee in its investigation and study.

SEC. 7. SALARIES AND EXPENSES.

Such sums as are necessary shall be available from the contingent fund of the Senate out of the Account for Expenses for Inquiries and Investigations for payment of salaries and other expenses of the committee under this resolution, which shall include sums which shall be available for the procurement of the services of individual consultants or

organizations thereof. Payment of expenses shall be disbursed upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries paid at an annual rate.

SEC. 8. REPORTS; TERMINATION.

(a) The committee shall make the final public report to the Senate required by section 4(b) as soon as practicable after the conclusion of the investigation and study.

(b) The final report of the committee may be accompanied by whatever confidential annexes are necessary to protect confidential information.

(c) The authorities granted by this resolution shall terminate 30 days after submission of the committee's final report. All records, files, documents, and other materials in the possession, custody, or control of the committee shall remain under the control of the regularly constituted Committee on Banking, Housing, and Urban Affairs.

SEC. 9. COMMITTEE JURISDICTION AND RULE XXV.

The jurisdiction of the committee is granted pursuant to this resolution notwithstanding the provisions of paragraph 1 of rule XXV of the Standing Rules of the Senate relating to the jurisdiction of the standing committees of the Senate.

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

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

The Senator from New York.

Mr. D'AMATO. Mr. President, every person who has ever had the privilege to serve in the U.S. Congress has taken the same oath—a pledge to uphold our Constitution. The Constitution, with its system of checks and balances, places an obligation on the Congress to conduct meaningful oversight of the executive branch of Government.

The distinguished majority leader and Senator COHEN, in a book titled "Men of Zeal," said it best when they explained that:

> * * * a central function of democracy is to allow a free people to drag realities out into the sunlight and demand a full accounting from those who are permitted to hold and exercise power. Congress provides a forum for disclosing the hidden aspects of governmental conduct.

While the political party in power in the Congress and in the White House has changed many times in more than 200 years, the Congress' constitutional obligation to examine the conduct of the executive branch and to bring all the facts before the American people has never changed.

Today, the Senate has a choice to make. Is the Senate going to authorize Whitewater oversight activities that are real—or just an illusion?

The resolution proposed by the majority leader is a transparent effort to prevent full and fair congressional oversight of the Whitewater affair. The majority leader's amendment would authorize hearings on only three limited areas:

First, the Park Police investigation into the death of White House Deputy Counsel Vincent Foster;

Second, the way in which White House officials handled documents in the office of White House Deputy Counsel Vincent Foster at the time of his death; and

Third, communications between officials of the White House and the Department of the Treasury or the Resolution Trust Corporation relating to the Whitewater Development Corp. and the Madison Guaranty Savings & Loan Association.

Not only does this resolution prevent the Banking Committee from fully examining potential misconduct by the Clinton administration related to Whitewater, but also fails to give the Banking Committee the essential tools necessary to conduct oversight activities. This resolution is so limited and so unfair that it would have been rejected out of hand by Senate Democrats if there were a Republican in the White House.

The Mitchell resolution abandons a 200-year tradition of thorough and fair congressional oversight in favor of a new policy: See no evil; hear no evil; speak no evil.

That is why the Republican leader, Senator DOLE, and I have prepared a Republican alternative to the resolution proposed by Senator MITCHELL.

The Republican alternative is patterned after oversight resolutions that have passed the Senate time and time again. Our resolution would provide the Banking Committee with the same oversight powers that were provided to countless other oversight committees in the past.

The Republican alternative is also consistent with the Whitewater resolution unanimously supported by the Senate on March 17. The resolution requires coordination of the Senate's Whitewater oversight activities with the independent counsel's investigation. It also requires that Whitewater hearings be scheduled after consultation and coordination with the independent counsel. These restrictions go further than any previous Senate oversight resolution in deference to an independent counsel investigation. Going any further would turn a strong and vigilant congressional watchdog into a lap dog of the independent counsel.

The Republican alternative also focuses on the so-called Washington Phase of the independent counsel's investigation which is soon to be completed. But unlike the Mitchell resolution, which is narrowly limited to just three areas, the Dole-D'Amato resolution would permit full and fair congressional oversight by authorizing the Banking Committee to determine whether there was any illegal, improper, unauthorized, or unethical conduct by officials of the Clinton administration, or any other person, related to Madison Guaranty Savings & Loan Association, Whitewater Development Corp., and Capital Management Services, Inc., occurring on or after January 20, 1993.

While some Democrats may claim that the Republican alternative resolution is simply a fishing expedition, I must remind my colleagues that the Senate has trolled these waters before—often times.

For example, the Senate Iran-Contra Committee was given the authority to investigate and study any activity, circumstance, material, or transaction having a tendency to provide or disprove that any person engaged in any illegal, improper, unauthorized, or unethical conduct in connection with the shipment of arms to Iran or the use of the proceeds from arms sales to provide assistance to the Nicaraguan rebels.

The Senate Watergate Committee was specifically authorized to investigate—and I ask you to listen to the words carefully—any activities, materials, or transactions having a tendency to prove or disprove that persons engaged in any illegal or improper or unethical activities in connection with the Presidential election of 1972.

During 12 years of Republican administrations the Congress kept the bright spotlight of congressional oversight on the White House searching far and wide for any sign of potential wrongdoing. Now that there is a Democrat in the White House, the Senate Democrats have apparently decided that it is time to turn the lights out.

As the New York Times observed in an editorial on June 17, efforts by Senate Democrats to restrict the scope of oversight hearings because the President is also a Democrat result in legitimate claims of a coverup. In fact, Senator BYRD, who was the majority leader during the Iran-Contra affair, said:

> It would seem to me if the President was of my own party, I should think that in the final analysis I would want all the facts, believing as I would, not having seen evidence to the contrary, that he is not guilty of having violated the law. But I would not want to shut off an investigation or do anything to impede an investigation. The result of my action then would be a hue and cry that there was a whitewash or that the people did not get the facts or that I tried to obstruct justice. I would want the complete facts, I would want all the facts. [Cong. Rec. p. 280, Jan. 6 1987]

These were the words of the distinguished former majority leader, the President pro tempore, and I think they are as correct today—and that is why there is a hue and cry that this is a whitewash. I refer to the former majority leader's own words and his own rationale. It was true then and it is true today.

Mr. President, the American people expect Congress to fulfill its constitutional obligation to conduct full and fair oversight and get to the bottom of Whitewater. Regrettably, efforts by Senate Democrats to engage in a Whitewater bailout will leave the American people high and dry.

Upholding our constitutional obligation to conduct comprehensive oversight has been a tradition in the U.S. Senate. Some of this institution's most shining moments resulted from our willingness to shine the light on the darker episodes in our Nation's history. It would be a tragedy if the Senate chose to cover up a stain on the White House caused by Whitewater with a whitewash of its own.

Mr. President, I see the majority leader is not here at this time. I think he was going to take some time. If he is not, I see my distinguished colleague from Pennsylvania.

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

Mr. SPECTER. Mr. President, if the Senator will withhold, I had come to the floor anticipating that the sequence would be that the majority leader would offer a resolution and that the Republican leader would offer a resolution. I had discussed a number of matters with the majority leader last week and had come to join my distinguished colleague from New York today to pursue that.

But, as a matter of sequence, I am waiting for the majority leader's resolution, for his response to what Senator D'AMATO has said.

Mr. D'AMATO. Mr. President, I suggest the absence of a quorum.

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

Mr. SPECTER. Mr. President, if the clerk will withhold the call of the quorum, we are under a time agreement. I suggest it be charged equally to both sides.

Mr. D'AMATO. It will be, as I understand it.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. 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. DOLE. Mr. President, I thank the distinguished Senator from New York for offering my amendment. I want to indicate that it is a very important amendment.

We talk a lot about cooperation around this place. Democrats need cooperation on this; they need cooperation on that. This is an example of what happens when the Republicans need cooperation. We get none. It may portend what may happen in the future.

But I think when historians look back to June 1994, they will see one of those rare occasions in American political history when one branch of Government—the Congress—willingly gave up power to another branch—the executive. I think this is very significant.

We can doll it up all we want, dance around it, make speeches, but there is no question about it, we just simply surrendered congressional authority to the executive branch by agreeing to limit the scope of Whitewater hearings to three narrow issues. We have taken the extraordinary step of giving an independent counsel, an unelected bureaucrat, the opportunity—in fact the right—to exercise the veto over our own oversight activities which, by the way, happen to be rooted in article I of the Constitution. No permission slip from Mr. Fiske, no hearings. It is just that simple. No bureaucratic signoff, no investigation by Congress. So much for oversight and so much for the separation of powers.

Of course, Mr. President, Congress has rarely been so deferential, particularly when it comes to oversight. Did the House Subcommittee on Oversight and Investigations get permission from Independent Counsel Whitney North Seymour before holding hearings on Michael Deaver in 1986? Of course not.

Did the House Judiciary Committee wait to get the go-ahead from Independent Counsel Alexia Morrison before investigating Assistant Attorney General Theodore Olson? Of course not.

Did Lawrence Walsh's Iran-Contra investigation prevent the House and the Senate from going forward with hearings? The answer is obvious.

Did Justice Department investigations into BCCI and BNL stop Congress from conducting its own concurrent investigation into these matters? Not a chance. Of course not.

And what about Watergate, Mr. President? The efforts of Archibald Cox and Leon Jaworski certainly did not prevent Congress from conducting hearings broadcast live on national television and live on radio and covered for months and months.

But now we have appointed a traffic cop. Mr. Fiske is Congress' traffic cop. If he flashes a red light on hearings, that is the end of it; we cannot have any hearings. We have to stop. If he gives us a green light, we can go maybe a little ways, but they have to be circumscribed by what will be a party-line vote here. It will be a stop-and-go process: Stop and go, stop and go.

We want to cooperate with Mr. Fiske, and that is why he has had a 5-month head start. That is why we have agreed not to grant immunity to any witness, because that was a major concern early on. So we thought we had taken care of that.

But it all comes down to the fact that Congress and Mr. Fiske have very different roles. Whether we are Democrats or Republicans or Independent, you have a right to know and a right to make a judgment for yourself. And Congress has responsibilities under the Constitution, as well as five major pieces of legislation. We have oversight responsibility. Our mandate comes from the Constitution. We were elected by the American people, and we are going to take our case to the American people in the coming weeks and months and see if they think Congress has a right to know, and tell them to take a look at the record of the last 12 years and the statements of my colleagues on the other side during those 12 years and then make a judgment.

But we were elected by the people. Mr. Fiske was appointed by the Attorney General who was appointed by President Clinton. Mr. Fiske's job is criminal prosecution. Our job is full public disclosure. And these jobs are not incompatible; they are just different.

So we are going to take one more chance, one more offer of compromise, one more offer of cooperation, which you are going to hear a lot about in the next few weeks on the other side: "Oh, we need your cooperation on this, on GATT, on health care, on crime." Well, if we give the same cooperation we have had on this issue, it will be a long, hot summer. And maybe it should be a long, hot summer.

We cannot have it both ways. The majority party cannot say, "Well, on this issue you get zippo, nothing, until we tell you; until Robert Fiske tells you, you get nothing. On everything else, if you do not cooperate, then you are guilty of gridlock." I think that is a hard sell.

I hope that if we have a majority—which I think we will have next year—we will not comport ourselves in the same way. In fact, go back and look at the record when Republicans had control of the Senate. We conducted investigations of three Republican appointees.

So I just suggest that I hope we do not have a double standard here. I do not want people out here next week or the next week or the next month saying, "We need your cooperation. Why are you holding this up?" I will go back and read all the speeches they made on Whitewater. Maybe Mr. Fiske can take over domestic policy, if he has any spare time.

But let me talk about the compromise. Under the amendment, the forum for hearings is the Banking Committee, same as the Mitchell resolution.

Subpoenas may be authorized by the committee or the chairman with agreement of the ranking member, same as the Mitchell resolution.

No immunity may be granted to any witness, same as the Mitchell resolution.

The Banking Committee is encouraged to coordinate with Robert Fiske, same as the Mitchell resolution.

The committee is authorized to hold public hearings and make interim and final reports. Again, Mr. President, same as the Mitchell resolution.

The amendment also borrows from the Iran-Contra experience, taking language word for word from the resolution established in the Iran-Contra Select Committee.

Like the Iran-Contra resolution, the amendment provides that the Banking Committee may have access to relevant evidence in custody of any Federal agency. It directs the Senate legal counsel and the General Accounting Office to assist the committee if their help is requested.

And like the Iran-Contra resolution, it provides that Robert Fiske should make available to the committee all documents and information which may assist the committee in its own investigation.

Much of the debate last week centered around the issue of scope. My colleagues on the other side of the aisle want very narrow hearings, limited to three narrow areas, a small piece of the entire Whitewater puzzle.

Their proposal would prohibit us from examining the Justice Department handling of the RTC criminal referrals. It would prevent the Senate from taking a look at how Madison Guaranty was treated by S&L regulators. It would block hearings into the SBA loan that somehow found its way into the Whitewater partnership. It would say no to the hearings on the so-called commodities issue. It would prohibit us from asking the U.S. attorney in Little Rock why she delayed so long in recusing herself in the prosecution of David Hale. And if any Senator wants to examine the Whitewater partnership itself, that, too, would be off limits.

So most everything is off limits. It is a very limited scope; very limited scope.

So, Mr. President, do we really want full disclosure? Obviously, my colleagues on the other side do not want full—they do not want any disclosure. Are we really committed to oversight? Obviously not. Do we want to get the matter behind us? Obviously not. Maybe we have to wait until next year to have real hearings.

I want to make reference to a New York Times editorial of June 17, 1994, last week. This was the New York Times, not the National Republican Committee or Republican Senators. Let me quote what they have to say, because I think it will be quoted a lot, maybe in TV spots, later this year:

> Senate Democrats are rushing toward a partisan coverup—

Coverup—that is their word. Somebody used the word on the Senate floor last week and we were castigated and chastised. So I will read what the New York Times said:

> a partisan coverup of the Whitewater affair. They have voted to hold narrowly circumscribed hearings in the Senate Banking Committee, which they dominate. They are therefore likely to prolong the agony of the President they hope to protect.

So I suggest that it is not just Republicans who have been saying that the scope is too limited. There is not any opportunity for hearings.

We do not want to engage in a fishing expedition, as some of my Democratic colleagues have suggested. That is why we are prepared to narrow the scope of the hearings to cover only those activities that occurred during the Clinton administration on or after January 20, 1993. If we are serious about having hearings on the subject covered by the so-called Washington phase of Fiske's investigation, then let us do so. But let us not limit hearings to bits and pieces proposed in the resolution offered by the distinguished majority leader. If we mean what we say, then let us look at the entire Washington component of Whitewater.

So, Mr. President, as I have said, our amendment, with minor changes, adopts the resolution of the majority leader.

It also adds a fourth area of inquiry allowing the Banking Committee to examine any other activity having a tendency to prove or disprove that any person engaged in illegal, unauthorized or unethical conduct relating to Whitewater, Madison Guaranty or Capital Management Services occurring—Mr. President, this is important—on or after January 20, 1993. In other words, during the Clinton administration.

It tracks the March 17 resolution which passed this body 98 to 0, and now we are backing away from that. It has been March to April, April to May, May to June. Three months, ninety days, we have been backtracked on the other side. We voted for that because there was a public outcry at the time. That subsided now so it is not important anymore. By directing the Banking Committee to examine any activity suggesting illegal, unauthorized, or unethical conduct, it also adopts word-for-word the scope of inquiry contained in the Iran-Contra resolution.

So, Mr. President, Republicans are willing to be reasonable, following precedent, limiting the scope of the hearings to Washington matters occurring during the administration, allowing hearings to be held in the Banking Committee, accepting much of what the distinguished majority leader himself has proposed.

So it just seems to me that we will be back. This will not be the last amendment offered on Whitewater. We know the outcome of this amendment. We may have another one this week. We may have several next week. We may have several after the July 4 recess because this is a fair compromise striking a fair balance and, in my view, it should pass with strong bipartisan support. But, of course, with only 44 votes on this side of the aisle, I have no illusions about the outcome later today.

Finally, Mr. President, I would be remiss if I did not thank my distinguished colleague from New York, Senator D'AMATO, for his leadership on Whitewater. It is not easy being the point man on an issue as controversial as this one, but I believe that Senator D'AMATO has handled his responsibilities with diligence and with considerable skill. I think in the long run the American people, regardless of party, are going to owe Senator D'AMATO and the Senator from Pennsylvania [Mr. SPECTER] and others who kept this issue out in front, for public disclosure, a debt of gratitude.

I ask unanimous consent that the New York Times editorial be printed in the RECORD.

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

[From the New York Times, June 17, 1994]

RUNNING FOR COVER ON WHITEWATER

Senate Democrats are rushing toward a partisan cover-up of the Whitewater affair. They have voted to hold narrowly circumscribed hearings in the Senate Banking Committee, which they dominate. They are therefore likely to prolong the agony of the President they hope to protect.

By a 56-to-43 vote, the Senate decided to limit hearings next month to three elements of the case. One is the U.S. Park Police's investigation into the death of Vincent Foster Jr., the Deputy White House Counsel. Two, the way in which members of the White House staff disposed of Mr. Foster's Whitewater files. Three, whether White House officials tried to manipulate Treasury Department investigations into Madison Guaranty Savings and Loan.

This agenda focuses only on White House behavior after Bill Clinton became President and excludes far more important questions about what happened in Arkansas before he and Mrs. Clinton reached the White House.

To recapitulate: Did James McDougal, a Clinton crony who headed Madison, receive favorable treatment from a bank regulator appointed by then-Gov. Bill Clinton? Were Madison funds used to pay off Mr. Clinton's 1984 campaign debt? Were funds in Madison accounts diverted to the Whitewater Development Company? How much did the Clintons pay for their half-share of Whitewater? Did they receive financial benefits that they should have reported as taxable income?

In short, the Democrats have chosen to ignore precisely those dealings that have raised suspicions that the Clintons may have profited from favors dispensed by people who had something to gain from them. They have also shown no interest in Mrs. Clinton's commodities trading, or the possibility that an artful broker may have given her favorable treatment. The special counsel investigating Whitewater, Robert Fiske, has likewise shown little interest in this issue.

The Democrats say their timid agenda results from a desire not to undermine Mr. Fiske's inquiries. They also promise to get to the Arkansas questions next year—safely after the midterm elections. In March, this page argued against a partisan circus and agreed that hearings should be delayed until Mr. Fiske got his feet on the ground. But we also said the delay should be measured in weeks, not months. Mr. Fiske has now had time to learn the basics of the case, both in Washington and Arkansas; it is hard to see how a broad Congressional inquiry could seriously hinder him. It might even help; past

Congressional hearings have made the prosecutor's case even stronger.

We also noted that Mr. Fiske could not expect Congress to abdicate its oversight responsibilities. The banking committees have a legitimate interest in the behavior of Federal bank regulators and the Arkansas bank regulators in regard to Madison and its dubious lending practices.

House Democrats are expected to follow the Senate's narrow path. This path does not serve the public or the President. It leaves unanswered questions that voters deserve to have answered. It prolongs the uncertainty that has damaged this Presidency from day one of the Whitewater affair and hands the G.O.P. a new—and legitimate—cover-up issue.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

Mr. President, while the Republican leader is in the Chamber, if I may have his attention very briefly, the two resolutions really require analysis and debate if there is to be any presentation as to the differences between them.

I had a discussion with the majority leader on June 15 and made some references specifically to the Office of Thrift Supervision. I asked him if he would include the OTS in his resolution if we produced the indicators of the relevancy to matters which were already within his resolution. We had a discussion also as to other agencies like the Justice Department or the FDIC.

Now, I know that Senator MITCHELL is busy. He was here earlier today. We do not have very much time to debate this resolution, but I intend to start to go into the facts.

The Republican leader has made a comment about this resolution coming up again. If we are not able to really get down to brass tacks and have a discussion with Senator MITCHELL as the offeror of the other resolution, I intend—I hope with the Republican leader's backing and the backing of my colleague, Senator D'AMATO—to revisit this without a time agreement so that we can get down to the hard facts and the indicators about the necessity for the breadth of the investigation.

When we are here in the Chamber—and there are three Republican Senators here: Senator DOLE, Senator D'AMATO, and myself—and nobody to defend it, it is like a sound Chamber; we can talk but who is listening. We can produce some very damaging evidence which really warrant broader investigation to which the distinguished majority leader really ought to respond.

So I just make that prefatory statement because I hope we will revisit this long enough to bring out the facts and to have the kind of analysis which will show the American people, beyond those who read the lead editorial in the New York Times, which characterized it as a coverup, that the hard facts require a much broader charter than is in the Mitchell amendment, and require at least the charter which is in the Dole amendment.

I proposed to discuss this morning, Mr. President, the five separate factors of hard indicators that the scope of the Mitchell resolution is totally insufficient. Those factors relate to the Justice Department, including the Attorney General directly, the FDIC, the Office of Thrift Supervision, the Hale issue, and the alleged suicide, the very sad situation regarding Mr. Foster.

Now, the scope of the Mitchell amendment is extraordinarily narrow in three particulars. It does not have the customary introductory prefatory language which is always found in these matters and is found in the Dole amendment, which calls for an investigation into and study of all matters that have a tendency to reveal the full facts about this issue. All the Mitchell amendment says is conduct hearings into whether improper conduct occurred regarding this issue, and then the three items.

Thus, on its face, you start off with a proposition that the Mitchell amendment does not have the customary clause to investigate all the matters relating to any specific item. Then, Senator Dole's amendment goes on to discuss, in subsection (D), relating to any "other activity, circumstance, material or transaction having a tendency to prove or disprove that any official of the U.S. Government or any other person, acting either individually or in concert with others, engaged in any activity that was illegal, improper, unauthorized or unethical in connection with any activity related to Whitewater Development Corporation, Madison Guaranty Savings and Loan Association, and Capital Management Services occurring on or after January 20, 1993."

Mr. President, that is an important day because what the Dole amendment calls for is an investigation by the Senate into matters which have been generally referred to as phase I. Phase I involves what happened while President Clinton has been in office, because it is in that scope that the President, as the chief executive officer, has the ultimate control over the Justice Department, the Treasury Department, OTS, FDIC, and the RTC. That is why it is important as to phase I—and we are not talking about going into everything in the past—that at least all matters involved after Mr. Clinton became President, would be subject to investigation by the Senate inquiry.

Now, Mr. President, necessarily, that inquiry will relate to matters which occurred in the past. For example, the Mitchell amendment concedes that there will be inquiry and investigation into discussions between White House officials and Treasury Department officials and RTC officials. When you get into the subject matter of those conversations, then inevitably there will have to be questions about what occurred on the matters related to the subject. We do not know what they talked about. But they probably talked about McDougal advancing the funds that should have been paid for by President and First Lady Hillary Clinton.

So that when you talk about those discussions, inevitably there is going to have to be an inquiry into some of the underlying substantive matters, even though that is a part of the subject matter which will be investigated in phase II by the special counsel.

Mr. President, I must comment at this point that it is really demeaning, at least in my opinion, for the U.S. Senate to be taking a second-class position behind the independent counsel and deferring to him. The purpose of the independent counsel and his role in conducting a grand jury investigation, which is secret and looks for criminal prosecutions, is totally different from the responsibility of the U.S. Senate on a congressional inquiry. It is conceded generally that matters of public policy that the Senate looks into are of greater importance than individual prosecutions.

That is not to say that the individual prosecutions are not important. That is not to say that the Senate should not exercise care to avoid interfering with the underlying prosecutions. If you come to a test case where you have important matters to be investigated by the Senate and it may conflict with the prosecution, you ought to try to work it out between the Senators and the prosecutor. But, Senators ought not make a commitment in advance to be deferential to the prosecutor and to give up our senatorial prerogatives carte blanche, lock, stock, and barrel, to the prosecutor, which is what we are doing here.

The suggestion has been made—and I think it is pretty obvious—that the deference being made here is not a matter of protecting the prosecutions, which we can protect without that deference. Deference is being made to limit the investigation. It is—these are not ARLEN SPECTER's words; these are the words of the New York Times—the "coverup" which is involved here.

So it is pretty galling, frankly, to be talking about a Senate inquiry, as a U.S. Senator and former prosecutor, which is subordinate to the prosecutor's inquiry. But that is the fact of life because there are 56 Democrats and 44 Republicans. That number may change. Senator DOLE talks about television spots in the next election. But that is the mathematics.

We had a lot of votes last week. That is going to be the mathematics of the vote today. But the least we can do is have it out as to what the underlying evidence is, and I hope the majority leader will join us. He was on the floor

today. I know he has to make his own schedule. I know he has a lot of commitments. I will do my best—if not today, then tomorrow, the day after, sometime in the future—to talk about the matters factually, which I am happy to address with the majority leader present.

Mr. President, it is insufficient to have the scope of the investigation limited, under the Mitchell resolution, to "communications between officials of the White House and the Department of Treasury"—where the Resolution Trust Corporation related to Whitewater Development Corp. and Madison Guaranty Savings & Loan. It's just not sufficient to limit it to White House, Treasury, and RTC. I had this discussion briefly with the majority leader on the 15th, as the CONGRESSIONAL RECORD shows.

The reason that is not sufficient, Mr. President, is that there are others who are involved in these discussions. I now refer to materials which were disclosed by Congressman JIM LEACH, who has done an outstanding job in ferreting out materials on the House side. This document that I refer to is a memorandum from L. Jean Lewis to L. Richard Iorio. Ms. Lewis relates a conversation which occurred on May 19, 1993, where Ms. Dyone Mitchell of the Office of Legal Counsel of the Department of Justice advised that a prosecution matter had been forwarded on to Ms. Donna Henneman in Legal Counsel.

Jean Lewis then contacted Ms. Henneman and explained that it was a referral out of Madison Guaranty forwarded to a Mr. Chuck Banks, who had been in the U.S. attorney's office. According to this memorandum, written by Jean Lewis of the RTC, Ms. Henneman.

> . . . had immediate knowledge, stating, "Oh, the one involving the President and his wife."

She then stated that is, Ms. Henneman stated, according to this memorandum from Jean Lewis—that the referral had been submitted to that office as a "special report" for the attention of the Attorney General, and not as a referral for the prosecution.

She then stated—that is, Ms. Henneman said to Ms. Lewis—that:

> Anytime a referral comes in that would make the Department look bad, or has political ramifications, it goes to the Attorney General.

She further added that the referral had been submitted to that office:

> . . . because of the political ramifications and the political motivations.

When you are dealing with influence of the White House, how can you limit the investigation to the Department of Treasury and the Resolution Trust Corporation, when there are documents which show that the Department of Justice was involved and that the referral was made to the Attorney General personally?

Whether it got to the Attorney General, or what the Attorney General did, or whether the Attorney General was involved, I do not know.

By my comments, I do not cast any aspersions on the Attorney General or on anyone else. But this kind of a memorandum, which is a smoking gun, requires that the scope of the investigation include the Department of Justice, the U.S. attorneys where the referral was made, and the Attorney General, to see precisely what happened.

That is point one, Mr. President.

Mr. President, there is a time limitation on which I have just consulted with my colleague, Senator D'AMATO. So I shall be brief. Perhaps we will revisit this at another time. I will put these documents in the RECORD.

There is a notation by Jean Lewis concerning a discussion with FDIC attorney April Breslaw, where Ms. Breslaw stated that:

> . . . the "head people" would like to be able to say that Whitewater did not cause a loss to Madison, but the problem is so far that no one has been able to say that to them.

April Breslaw said because it "would get them off the hook."

The memo goes on to say:

> If you know that your mortgages are being paid, but you are not putting money into the venture, and you know that the venture is not cash flowing, wouldn't you just question the source of the funds being used to your benefit?

That is referring to the obligations to pay the mortgage that the President and First Lady Hillary Clinton had, and refers to the source of the money coming from Mr. McDougal.

Last week, I had an extended discussion with the majority leader on the issue of including the Office of Thrift Supervision in the scope of the resolution because it is insufficient on its face when it refers only to the Treasury and RTC.

An article in the New York Times dated March 16, 1994, sums it up as follows:

> Clinton administration officials last year rejected a recommendation by a senior regulator to open a Treasury Department investigation into the failed savings and loan association owned by President Clinton's former partner in the Whitewater venture. . . .
>
> The request to open a broad investigation of the savings institution was made by Brian McCormally, the top enforcement official for the Midwestern division of the Office of Thrift Supervision . . .
>
> . . . the request was turned down last fall by Mr. McCormally's supervisors in Washington, Carolyn Lieberman, acting counsel to the thrift supervision office, and Jonathan Fiechter, acting director of the office. They report to senior political appointees at the Treasury Department, and rarely make major decisions without high-level consultations.

On its face, this demonstrates a need to go into the Office of Thrift Supervision, a need which is not comprehended within the Mitchell amendment, but is comprehended within the Dole amendment.

Point four: The issue involving David Hale, a matter which occurred after President Clinton became President so it is within phase I.

Now I quote from the New York Times of March 21, 1994:

> With profits from that deal in hand, Mr. Hale's company made a number of loans to people connected to Arkansas Democratic politics. The largest was a $300,000 loan in April 1986 to Mr. McDougal's wife Susan. Mr. Hale has asserted that both Mr. Clinton and Mr. McDougal pressed him to make the $300,000 loan, knowing it would not be used by Mrs. McDougal.

And further in the article.

> It is not clear what happened to the $300,000. But some money from the loan appeared to wind up for a while in 1986 in Whitewater as part of a land deal. Mr. McDougal has said that the Clintons, his partners in Whitewater, were unaware of that transaction.

Here you have the U.S. Attorney operating in the Department of Justice, part of the Clinton administration, while President Clinton was in office, and this inquiry is foreclosed by the Mitchell amendment. It would be permitted by the Dole amendment.

The Mitchell amendment does relate to the alleged suicide of Vincent Foster, but, on its face, that provision is so narrowly circumscribed that it may well prevent the Senate inquiry from going into related factors which have to be investigated if there is to be any sense made out of the matter relating to the Foster suicide.

On July 20, 1993, a Federal magistrate in Little Rock authorized a search warrant for the business offices of David Hale. Hours later, Vincent Foster left his office and allegedly committed suicide. Mr. Foster had received calls from a former colleague in the Rose law firm and the Denver lawyer James Lyon, who prepared the Whitewater review for the campaign in 1992.

The Washington Post on December 19, 1993 noted the failure to have the Whitewater tax returns filed and that they were prepared later by an Arkansas firm under the direction of the late Vincent Foster.

Those are matters, Mr. President, which should be inquired into if there is to be any real substance to the very narrow articulation of the Mitchell amendment.

I note my colleague Senator COHEN is on the floor and time has been reserved for him.

So I will conclude, Mr. President, with a request. I ask unanimous consent that the full memorandum, dated May 19, 1993 from L. Jean Lewis to L. Richard Iorio be printed in the RECORD and the two-page notes of conversation between RTC senior criminal investigator L. Jean Lewis and FDIC attorney April Breslaw be printed in the RECORD.

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

To: L. Richard Iorio.
CC: Lee O. Ausen.
From: L. Jean Lewis.
Subject: #7236/Madison Guaranty Savings
Date: Wednesday, May 19, 1993 15:55:03 CDT

In following up on the suggestion that Mr. Daniel Koffsky, Acting Assistant Attorney General, be sent a copy of Madison referral #C0004, I contacted the Office of Legal Counsel to verify the correct address. In speaking with Dyone Mitchell of that office, I reiterated the address provided by US Atty Richard Pence, which reads:

Office of Legal Counsel
Executive Office for the U.S. Attorneys
U.S. Justice Department
Washington, DC 20530

The letter provided the phone number (202) 514-2041.

Ms. Mitchell advised that the Office of Legal Counsel and the Executive Office for the U.S. Attorney's were two separate sections, and that the referral may have been forwarded to the Executive Office instead of Legal Counsel. She then connected me with the operator, who put me through to the Executive Office where I spoke with Stephanie Kennedy. I explained to Ms. Kennedy what I was looking for, and she said she would get back to me this afternoon.

She called me back at 3:30, and advised that she had forwarded the matter on to Donna Henneman in "Legal Counsel", who would check it out and call me back tomorrow. I then contacted Ms. Henneman to offer background information on what I was looking for. When I explained that it was a referral out of Madison Guaranty, forwarded to that office by Chuck Banks, she had immediate knowledge, stating "oh, the one involving the President and his wife". She then stated that the referral had been sent to that office (exactly which office is still unclear to me) as a special report for the attention of the Attorney General, and not as a referral for prosecution. She then stated that "anytime a referral comes in that would make the department look bad, or has political ramifications, it goes to the Attorney General." She further added that the referral had been submitted to that office "because of the political ramifications and political motivations", and then told me that referrals were not prosecuted out of that office. She then stated that the referral had been declined. I advised her that the referral had not been declined, and read her the letter sent to this office by U.S. Attorney Richard Pence. She acknowledged that she was confused, and told me she would speak with her supervisor, Deborah Westbrook, and have her call me back tomorrow. I then asked for Ms. Henneman's title, and she informed me that she was the Ethics Program Manager. I thanked her and ended the conversation.

I'll keep you posted if and when I hear from Ms. Westbrook.

Notes from the conversation between RTC Senior Criminal Investigator L. Jean Lewis and FDIC Attorney April Breslaw on February 2, 1994, from approximately 3:50 p.m. until 4:35 p.m.

April stated that "the people at the top" keep getting asked about Whitewater, which seems to have become a catch all phrase for Madison and its related investigations. She said that eventually "this group" is going to have to make a statement about whether or not Whitewater caused a loss to Madison, but the fact that Whitewater had no loan at Madison and provided less potential for a loss. April stated very clearly that Ryan and Kulka (7), the "head people" would like to be able to say that Whitewater did not cause a loss to Madison, but the problem is that so far no one has been able to say that to them. She felt like they wanted to be able to provide an "honest answer", but that there were certain answers that they would be "happier about, because it would get them off the hook."

April felt that it would have been difficult to determine exactly what happened with the Whitewater account, because so many checks had gone in and out of the account, and made a reference to the end resulting netting itself out. She joked about Greg Young's work papers on the Maple Creek Farms reserve for development analysis, and how it didn't seem to have any apparent tie to Whitewater. I concurred that it didn't have any legitimately defined tie, which is precisely why it was included in the referral.

She inquired about the $30,000 check to Jim McDougal from Whitewater in 5/85, and about the disposition of the funds. I explained the transaction as I know it: the $30,000 had been converted to a MGS&L cashier's check, which was subsequently endorsed by and deposited to Riggs National Bank. I explained that when the check was force paid, the Whitewater account was overdrawn by over $28,000 which was then subsequently covered by the payment of a $30,000 bonus from WFC to Jim McDougal, deposited directly to Whitewater on McDougal's orders.

She asked how we could get to a clear cut answer as to whether or not Whitewater caused a loss to Madison. I stated that, as far as I am concerned, there is a clear cut loss. I also stated that any attempt to extract Whitewater as one entity from the rest of the McDougal controlled entities involved in the alleged check kite will distort the entire picture. I further pointed out that I would produce the answers that were available, but that I would not facilitate providing "the people at the top" with the "politically correct answers just to get them off the hook."

She asked questions about the specifics of the checks going through the Whitewater account. I stated that it appeared that the majority of the checks written out of the Whitewater account during the window time frame were going to other financial institutions to make loan payments. I also said that the referral focused only on a short time frame, but that if that same research were conducted for a two year period, it was my belief that the losses to Madison from the Whitewater account alone would easily exceed $100,000, given that $70,000 had gone out of the account during the six month window time frame. I further added that the end loss result from the entire scam, using all 12 companies/entities, would be hundreds of thousands of dollars in what were essentially unauthorized loans.

I stated that if she wanted me to tell her, unequivocally, that Whitewater didn't cause a loss, I could not do that. I could only reiterate the allegations contained in the referral, which are based on fact, and that it is my opinion and belief that Whitewater did, in fact, cause a loss to Madison because of the amount of the unauthorized loans that McDougal made, through the check kite, to entities in which he was a primary party and beneficiary. I also pointed out that this ultimately benefited his business partners—the same business partners that knew they had real estate ventures that were not cash flowing, but that also knew their mortgage and/or notes were somehow being paid. I pointed out that these business partners are intelligent individuals, the majority of them being attorneys, who must have concluded that McDougal was making the payments for their benefit. I posed the question to her, if you know that your mortgages are being paid, but you aren't putting money into the venture, and you also know the venture isn't cash flowing, wouldn't you question the source of the funds being used to your benefit? Would you just assume that your partner was making these multi-thousand dollar payments out of the goodness of his heart? Wouldn't you wonder even more if you knew that your business partner's main source of income, an S&L, was in serious financial difficulty, which by 1985 was fairly common knowledge?

We discussed the initiation of the MGSL investigation, and how evidence of the check kite came to light. I explained that after reviewing a series of checks, all of which noted "loan" in the memo field, I discerned a pattern that looked like a check kite, and proceeded to trace funds through the various accounts, which is a standard investigations procedures. The end result was the referral alleging a massive check kite. I also advised April that I had been told by both the U.S. Attorney's office (Mac Dodson), and the FBI (Steve Irons) that this was a highly prosecutable case of check kiting. I also told her that I disputed the declination of that referral on the basis of "insufficient information". She commented that "that's what Grand Juries are for", and I pointed out that it generally seemed to be the policy of the U.S. Attorney to agree to open a case before they would start Grand Jury proceedings. I also noted that I found the treatment of that particular referral by the Justice Department to be highly unusual. This concluded our discussion.

Mr. SPECTER. That will be sufficient without encumbering the RECORD further.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Chair recognizes the Senator from New York [Mr. D'AMATO].

Mr. D'AMATO. I yield to the Senator from Maine [Mr. COHEN], 15 minutes.

The PRESIDING OFFICER. The Senator from Maine [Mr. COHEN] is recognized for 15 minutes.

Mr. COHEN. I thank the Senator for yielding.

Mr. President, I take the floor today not with a hope that we may change the ultimate outcome of the vote that will occur later this afternoon but at least to express my sense of frustration and opposition to the kind of double standard that is now being exhibited through the legislation proposed by the majority.

When the Iran-Contra scandal unfolded, the notion of a sale of weapons to Iran was in complete contradiction to the articulated public policy on the part of the Reagan administration, and many people, including myself, were justifiably outraged that we would have one public policy and a private policy that contradicted it.

When the diversion became a matter of public knowledge, it only compounded the sense of outrage that

our system was being distorted or indeed perverted in a way that was inconsistent with our democratic values.

At that time, there were a number of committees that had jurisdiction—the Intelligence Committee, Foreign Relations Committee, and Armed Services Committee. There was the prospect there would be multiple investigations into these allegations about the wrongful sale and diversion of funds to the Nicaraguan contras.

At that time, the majority decided it should establish a select committee, and I recall the kind of calculation that was involved in resolving the composition of that committee. We in the minority sat back and waited to see whether the majority would appoint Members who were renowned for their partisanship and then we would respond in kind.

That did not occur. I think both leaders felt at that time that the Senate would distinguish itself only by appointing Members who would conduct those hearings in the most impartial fashion possible. That is outlined in the book that Senator MITCHELL and I coauthored called "Men of Zeal," and I will not take the time to quote from the specific passages, but I later will submit those for the RECORD, including recommendations how future investigations ought to be conducted when there are allegations of either misuse of Federal agencies or personnel or other types of inappropriate conduct by the executive branch.

The experience to date on Whitewater is quite different. From the very beginning, the majority has said we do not care what the allegations are; there will be no hearings, period. The Justice Department is conducting whatever investigations are appropriate.

It was only after there were certain revelations that perhaps the Justice Department was not as independent as it portrayed itself to be that finally the majority relented, and I might point out it has taken this Congress and this Senate longer to agree to appoint a committee or to authorize a committee to investigate the allegations than it did to conduct the entire Iran-Contra investigation. The entire investigation was conducted within a 9-month period. Discussions over Whitewater hearings began last October, and we still do not know if hearings can be set up by August because we do not know whether the special prosecutor will complete his investigation by that time.

But in any event, we finally found the majority willing to appoint a special prosecutor. But then the argument became now with the special prosecutor you cannot have any hearings whatsoever. In my judgment, at that time, no Whitewater allegations rose to a level of criminal misconduct. The majority said you can have a special prosecutor and we agreed because that is all we could get.

But, of course, the special prosecutor investigation is conducted in private. It is conducted in a courtroom in which cameras are not allowed, and everyone in this Chamber knows that the public does not have as great an appreciation or understanding of the issues involved unless they can see them, unless they can look at the witnesses, unless they can make some assessment as to the truth or veracity or lack thereof on the part of any given witness. Only when the public can see them discussed and debated openly do they really understand the depth of the issues. Of course, if you have a special prosecutor, you never get to see that. You will read about it and, indeed, I wonder how many have bothered to read the final report that was filed by independent counsel, Mr. Walsh, Judge Walsh. I doubt if few beyond this beltway, maybe not within the beltway, ever bothered to read it.

So everybody understands, if you can just keep the people away from congressional hearings, whatever the outcome, the special prosecutor will have a minimal effect, if any at all.

I must say with respect to Iran-Contra that, had the Congress at that time yielded to Judge Walsh, who said, "Please, don't go forward with your hearings," I doubt very much whether the public would have had the same understanding of the gravity of the issues involved in that scandal. During those hearings, we learned not only was there a sale of weapons to Iran, a terrorist country, and a diversion of funds to the Nicaraguan Contras, in violation of the Boland amendments. I believe there was a violation of the Boland amendments, and I think the courts agreed on that issue. A separate, off-the-shelf, stand-alone, self-sustaining capability to carry out future covert activity was created, as we recall Colonel North telling us before the cameras at that time.

I think one of the most dangerous aspects of that entire event was the creation of a private, stand-alone, self-sustaining covert capability that undermined the foundation of our democratic system that might not have been revealed until long after President Reagan and maybe even President Bush left office.

So it was imperative that the Congress exercised its constitutional responsibility under those circumstances as we did. But in view of what happened, because Colonel North's conviction was overturned and that of Admiral Poindexter because of the use of their testimony, Congress has reacted with some caution, as I think it is appropriate.

I think it is appropriate that we try to take into account the needs and responsibilities of the special counsel.

I attended the meeting with Mr. Fiske and Senator D'AMATO, my colleague from New York. I believe we reached an understanding at that time; namely, that he should be allowed to proceed with—we should not call it the first phase, because he is conducting the investigation simultaneously—that aspect of his investigation that surrounded allegations that pertained to the President and his administration since the time he took office. That was the understanding about the Washington aspect of his investigation.

And I might point out, by the way, that he felt that he could conclude that aspect of his investigation "within a few weeks," were his exact words. That was back, as I recall, in either early or mid-March. So it is not a few weeks. It is March, it is April, it is May, it is June, and now we are told it is July. But, fair enough, if it takes that long to conduct his investigation.

But we said we would not grant any immunity to any of the witnesses and that we would try to structure the hearings and, as I recall, I insisted upon the words "structure and sequence the hearings" so as not to either interfere with or undermine his investigation.

The majority leader has taken the position that we cannot even begin to hold hearings until Mr. Fiske has completed the subject of his investigation, the so-called Washington matter. But the Washington matter has been confined to three specific areas.

That was not my understanding of the agreement that we reached with Mr. Fiske. We said that we would defer our investigation or call for hearings until such time as he completed his investigation into those matters that pertained to the time the President took office. And, frankly, I think that is the way it should be structured. Let the special prosecutor go back 10 years or however long in the past, let him do that without interference or hindrance on the part of Congress.

But we did not at any time understand that to mean we would only be limited to three specific subject matters.

The majority leader has interpreted this Washington matter as only that which occurred in Washington. I find that hard to comprehend. If something occurred in Virginia or Maryland or perhaps St. Louis or Kansas City, then it is out of bounds? That clearly was not the understanding that Senator D'AMATO and Mr. Fiske and I reached at that time.

So now we have the situation that, I suggest respectfully, the majority has taken us back to October of last year—no hearings into the subject matters that the minority would like to investigate under any circumstances, because now we have delegated to the special prosecutor not only the timing as to when we can hold hearings—we cannot begin until he says so—but now

we also delegated to him the responsibility of deciding what we can investigate.

So we have the ironic situation where we have to wait for Mr. Fiske to complete every aspect of the so-called Washington matter, which is strictly confined to events in Washington, DC, and we also have to abide by his determination as to what is important and what is not important, because if he has not investigated it, we cannot investigate it.

I have never heard of anything as restrictive as this. The special prosecutor defines when and what. And if he does not investigate, Congress is out of bounds, it can not investigate. That is the interpretation the majority is now offering the U.S. Senate?

I think it is unprecedented, Mr. President. I think it is clearly a partisan ploy. And so let us not have the cry that it is simply raw politics being played over on this side of the aisle. It is politics being played on both sides of the aisle. We ought to understand that.

The majority is concerned that there are Members over here who would like to embarrass the President. That may be; that may be. I have stated time and time again that I personally do not want to see the President embarrassed. I hope he will not be embarrassed.

But I have also taken the position that, if you have nothing to hide, you have nothing to fear. If there is nothing out there, then do not be worried about it. If there is nothing to embarrass the President about, he will not be embarrassed.

Do you know who will be embarrassed? We will be embarrassed. Any Republican Member who seeks to make something out of nothing, who seeks to exploit an issue solely for the purpose of causing embarrassment to the President of the United States, the public will react to that. The camera does not lie. The public will be able to look in on those proceedings and see that this individual or that individual is not interested in finding the facts but simply trying to trash the President or the First Lady. We will receive an overwhelmingly negative reaction if that is the goal and motive in the procedure and the tactics that are adopted by the minority.

Mr. President, nothing that I say here today is going to change the outcome, because we are talking about something called pure power. The precedent is being set that, in the future, if there is ever a special counsel or independent counsel who has been appointed to investigate allegations of wrongdoing or misuse of power or authority or agencies or personnel, once that independent counsel has been appointed, Congress can no longer hold hearings on that subject matter. That is the precedent being set.

Second, if Congress is going to be allowed to hold hearings, it can only inquire into those areas that the independent counsel has inquired into and none other. That, too, is a precedent being set here today.

Last week, I said that is a very dangerous precedent. I want to modify that because I do not think precedents count much anymore. I do not think precedents mean anything anymore, not in this body.

Because being in the majority means never having to say you are sorry or to be bound by the rules, because you make the rules. Whatever the majority says, that is what the rule is going to be and we do not care about setting a precedent, ignoring a precedent, or overturning a precedent.

Sometime in the future, Mr. President, be it 1994 or 1996 or the year 2000, the majority in the Senate is going to change, and once again so will the rules change. I think it is unfortunate. I think something is being lost in this institution by what we are going through right now, because I think what we are witnessing is a turning of the Senate into something akin to the House of Representatives, where the majority can fill up the tree when it comes time to debating a President's stimulus package, or block every single amendment offered on this side by simply having recognition of the majority leader to offer a second-degree amendment and therefore, be prevented from voting on Republican amendments.

I must tell you, when that happens, when you do that, you will prevail on this today, but when you do that, you are succeeding in hardening the hearts and the spirits of some of us on this side who have dedicated their careers to working toward the middle, toward seeking compromise, of moderation, of working with the majority to come up with what we believe to be in the best interest of the people of this country. It may very well, in my judgment, affect the way in which we react and respond to the majority in other areas that are of interest to this country. That is not going to bode well for the country. It is not going to bode well for the Senate. I suggest it is likely to be the legacy of this Congress, that we took the Senate as an institution that we had loved in the past and which revered the rights of the minority in the past and protected them, and we started down the road of turning this body into another one which will not bear much resemblance to what it used to be.

Mr. President, I say this with some regret. I thought the amendment that was offered by my colleague from New York went too far in requesting too much. I feel the majority leader's proposal is much too restrictive. I felt there were legitimate areas the minority should be allowed to question and to structure the committee investigation in a way that would produce the best possible results.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. D'AMATO. I yield the Senator from Maine an additional 2 minutes.

The PRESIDING OFFICER. The Senator from Maine is recognized for an additional 2 minutes.

Mr. COHEN. I say this on a note of regret. What I see taking place in this institution is more partisanship, more polarization, more backbiting, less willingness to accommodate the interests of the other, less willingness to work out our differences—and an eagerness, perhaps, to throw down the line saying this is all you are going to get.

If that is going to be the case for the duration of this Congress, I suspect it is going to spill over to the next Congress because the numbers are likely to change. We may pick up a few seats. We may pick up perhaps even a majority. Then the tables will be turned. And when the argument is made of appealing to the majority at that time, there will be a stone ear. I do not think that would be in the best interests of this body. It would certainly not be in the best interests of the country. I think we ought to strive to reach an accommodation. We have not done that to date. It has been majority rule. They have said, "We dictate, these are our rules, take it or leave it." That should not be the legacy that we leave for this institution.

I yield the remainder of my time.

The PRESIDING OFFICER. Who seeks recognition? The Chair recognizes the Senator from New York, [Mr. D'AMATO].

Mr. D'AMATO. Mr. President, we are under a rather strict time limitation. I have a number of colleagues who indicated they would like to speak to this issue. The fact is, some of them are not here. Up until now we have used their time. There is no one present on the other side. I understand, if we go into a quorum call, time will be deducted, is that right, equally from each side?

The PRESIDING OFFICER. The Chair would advise that the time is deducted against the time allotted to the side that requests the quorum call unless unanimous consent agreement has been sought.

Mr. D'AMATO. I believe there has been a unanimous consent propounded, and I submit again, in the interests of fairness, that the time be deducted equally from both sides.

The PRESIDING OFFICER. The Chair will advise the Senator, that is done on a case-by-case basis.

Mr. D'AMATO. I renew my request. I suggest the absence of a quorum, and I request that time be deducted equally from both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, on March 17 of this year I received a letter from the Office of Thrift Supervision, from Jonathan Fiechter, the Acting Director. Mr. Fiechter sent me this letter in response to a New York Times article which appeared the day before. Quite unusual.

I ask unanimous consent that a copy of the letter be printed in the RECORD.

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

OFFICE OF THRIFT SUPERVISION,
Washington, DC, March 17, 1994.

Hon. ALFONSE M. D'AMATO,
Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR D'AMATO: I am writing you to respond to inaccuracies that appeared in a March 16, 1994 "New York Times" article regarding enforcement decisions it is asserted I made related to Madison Guaranty Savings and Loan. Although OTS does not ordinarily make an effort to point out inaccuracies in press articles, because this article has generated significant media and Congressional interest, I believe the effort here is worthwhile. My response must be limited, however, because it is OTS policy (similar to that of other agencies with enforcement powers) to refrain from discussing whether or not an enforcement action is underway or was ever contemplated or rejected.

The article contains a report that OTS (specifically, myself and the Acting Chief Counsel) turned down a request from a senior lawyer in the Midwest region to open a formal investigation into Madison Guaranty Savings and Loan. The article goes on to imply that this decision was made in consultation with senior political appointees at the Treasury Department, because the Chief Counsel and I "rarely make major decisions without high-level consultations."

First, contrary to the statement in the article, in my fifteen months as Acting Director, I have never been a party to any decisions either to initiate or not to initiate any investigations involving thrift institutions. My involvement in enforcement actions occurs only at the end of the process, after an investigation is completed, and a notice of charges or a consent agreement is presented to me for decision.

Second, formal investigations are proposed by regional exam staff in consultation with regional enforcement attorneys, considered by the enforcement review committee and regional director of the region in which the thrift is located, and, if approved, forwarded to the Chief Counsel for concurrence in consultation with the Deputy Director for Regional Operations.

Third, neither I nor OTS staff consult with Treasury Department officials on enforcement actions. The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) specifically prohibited such consultations, and we have adhered scrupulously to this requirement.

The OTS is a bureau of Treasury. I report to Frank Newman, Under Secretary of the Treasury. The only conversation I have ever had with Treasury regarding OTS enforcement activities relating to Madison occurred on March 16, 1994 when Mr. Newman mentioned the New York Times article and asked whether I had ever consulted with anyone at Treasury regarding any investigations or enforcement actions. I assured him that I had not had any conversations with Treasury officials on enforcement-related activities regarding Madison and that I was unaware of any conversation or memoranda between OTS staff and Treasury on this subject.

The staff of the Office of Thrift Supervision has worked diligently since the passage of FIRREA to restore the credibility of the thrift regulatory function and to clean up the thrift industry. Your committee has been supportive of our efforts. While it is always possible to second guess our decisions, I believe we have done a credible job of carrying out our mission. Our decisions have been based solely on the facts as we know them, applicable law, and the agency's supervisory objectives.

Sincerely,

JONATHAN L. FIECHTER,
Acting Director.

Mr. D'AMATO. Mr. President, according to the March 16, 1994, article in the New York Times, the Office of Thrift Supervision, Jonathan Fiechter and acting counsel Carolyn Lieberman turned down a request from a senior lawyer in the Midwest region to open a formal investigation into Madison.

I bring this up because this is the matter to which my distinguished colleague from Pennsylvania, Senator SPECTER, referred. He referred to, as it related to OTS, why the actions taken subsequent to President Clinton taking office were not covered in the scope of the hearing.

We are talking about whether or not people in the administration, in the executive department, used their power to attempt to impede an investigation.

Mr. President, is that a legitimate inquiry? Of course it is. On what basis could you possibly say that there should not be an inquiry of that matter? And, indeed, if Mr. Fiske completes his investigation—by the way, I do not concede this should be the case but even under the assumptions put forth by the Democratic leader that before you can look into anything, Mr. Fiske has to sign off—then why should not the actions of the Office of Thrift Supervision be looked into?

Whether or not there is merit in the article of the 16th where Mr. Brian McCormally, as a senior lawyer from the Midwest region and a top law enforcement official in OTS, apparently requested to open, and I quote, "a broadened investigation of Madison." The article does say that "two reports to senior political appointees at the Treasury Department were made."

The article says that they were turned down. Mr. Fiechter says that never happened; that he certainly was not involved and he sent me a letter advising us of that.

It seems to us that it is not a fishing expedition to ascertain exactly what took place. The Senator from Pennsylvania [Mr. SPECTER], is absolutely correct. We have a right to know, the American people have a right to know if Mr. McCormally was quoted inaccurately or if there was an attempt to stop a legitimate inquiry from being made relating to Whitewater? Was that undertaken by people from Treasury? Was Mr. Fiechter involved? He said he was not. I believe him. Who, if anybody was? Was this just a false rumor?

Should we not have the ability to call Mr. McCormally before the committee and ascertain exactly what took place? Why would this be outside the scope of a hearing, a legitimate hearing? Is it because we are involved in a coverup? And I use that word, because I believe that there has been no explanation to date as to why the Office of Thrift Supervision, the Federal Deposit Insurance Corporation and their employees did not follow through. They may or may not have been asked not to go forward with an investigation that they normally would have. Why would we not have the ability to make that kind of inquiry?

Here we have an assertion that Mr. McCormally, a lawyer working for the Office of Thrift Supervision, made a request to open up an investigation into Madison, and that it was turned down. The article goes on to say that Treasury, and it quotes unnamed senior political appointees, rarely makes major decisions without high-level consultations. I do not think that is startling. Do you really believe that they undertake these kinds of decisions without consultation? Do we not have a right to ascertain who at Treasury may have been consulted, and what they did or did not do? Is that not a legitimate scope of a hearing?

I say that Senator SPECTER is absolutely correct, and that is just one little aspect that needs to be answered. Why are we looking to deny legitimate hearings by excluding the Office of Thrift Supervision and the activities undertaken after the induction of President Clinton into the White House?

I understand the argument that can be made that we do not want to impede other investigations. But if the so-called Washington phase has been completed, then why can we not look into this matter? Why would you want to have hearings that preclude us? And by the way, if we go forward with hearings, I will tell you that I will push this issue, there is no doubt about it, because there cannot be any legitimate purpose if we do not have the ability to ascertain truth or falsity and to ascertain whether or not there has been an abuse of power by the administration.

We have a right to know. The people have a right to know. I have to tell you, I am not going to be silenced, nor are my colleagues going to be silenced, simply because one side has the votes. We still have in this country the ability to stand up and raise questions.

People may not like it. People may attack you for it. But I can tell you, I am going to continue to press because I know it is correct; I know it is proper. I know there would not be one outcry from the other side if we had a different situation, if we had a Republican President and we said you could not ask the Office of Thrift Supervision any questions relating to whether someone tried to impede an investigation from going forward after the new administration took office.

Can you imagine your colleagues saying: Oh no, you cannot ask that question. Ridiculous. But we are being told we cannot ask that question. Why? We are asking whether or not there has been an abuse of power, an attempt to stifle an investigation. Why can we not ask Treasury Department people about their possible contacts with the Office of Thrift Supervision and whether they kept them from looking into Madison?

That is what you are saying in this resolution. You cannot do it. Why? Did Mr. Fiske tell you you cannot look into this? He said: When I am done with my phase, you can do it. OK, fine. If he is done with his Washington phase, why can we not do it?

Do taxpayers not have the right to know whether agencies like the Office of Thrift Supervision, like the Office of Federal Deposit Insurance Corporation, were precluded from taking actions they normally would have taken except that there was political interference either by the Justice Department or by the Treasury Department? They do not have a right to know that?

That is what we are getting to, and that is exactly what the majority leader's resolution would stop us from doing, asking that kind of question.

Have they had secret meetings? Have they had contacts with the White House? Did they direct you to do certain things? People have a right to know. And yet we will not be able to pursue this. Just a little office like the Office of Thrift Supervision, just something that seems to me to be rather critical in this whole matter. Was there an abuse of power by the executive? Was there an attempt by the executive to stop a legitimate investigation from going forward into Whitewater/Madison as it related to the use of taxpayers' money?

Now, why would the OTS and the individuals who were involved not be asked whether or not they were permitted to do their job which is to ascertain whether or not Whitewater dollars were used illegally or whether taxpayers' money were used unreasonably, unethically, unfairly, and whether or not there was criminal and/or civil liability. Do you mean to tell me that speaking to the Treasury Department about that at a hearing and saying to a Treasury Department person: Did you have contact with the Office of Thrift Supervision—which is, by the way, part of them and they are allowed to operate in an independent manner. Can't we ask: Did you attempt to stifle them from going forward? Did you speak to Mr. McCormally? Did you speak to McCormally's supervisor? Did you tell them that no formal investigation could be opened up?

Do you mean to tell me we do not have the right to ask that question? What a lot of nonsense. What a lot of baloney. And I have to hear it is politics. I will tell you politics, politics on the Democratic side. It is a whitewash. We cannot even ask the Treasury Department whether or not they kept the Office of Thrift Supervision from doing their job after the President came into office. You mean to tell me that you are going to go forward and tell the American people that these are legitimate hearings? Nonsense. You may try, but you are not going to get away with it, absolutely not. And you can call me any name you want. You can deride me, et cetera, but I have to tell you something. We happen to be asking what is right and what is fair.

And there is politics involved. It is politics of a coverup. You would not dare attempt to impede an investigation of this type into a Republican President. No way. What else do you call what you are doing if it is not stonewalling?

Imagine, you cannot ask the Treasury Department whether or not they have had contacts and attempted to keep OTS from doing their job.

Now, I believe Fiechter. In his letter to me, he says he had no contact. I believe him. Were there others who did? Were there other people in Treasury who spoke to people in OTS that Mr. Fiechter may not have been aware of? Do we not have a right to know? And, by the way, if there was no one, then fine. Fine. But let us at least look into it. And that is one little area of the absurdity of the resolution which we are being asked to pass, which so limits the hearings that there will not be fair hearings.

Mr. President, I see that my colleague from Oklahoma, Senator NICKLES, is here. I yield the floor for 10 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my friend and colleague from New York. I also wish to compliment him for his leadership and his statement that he has made this morning, as well as last week, on this issue. I would concur with the analysis of his statement. I think that if we pass Senator MITCHELL's resolution we will be doing a disservice to the Senate, a significant disservice to the Senate.

Today we will be closing another chapter in the ongoing Whitewater matter. And in this Senator's opinion, it has been a very disappointing chapter.

It did not start that way, and it certainly does not have to end that way. The Senate voted 98 to 0 last March 17 to conduct hearings on all matters related to Madison Guaranty Savings and Loan Association, Whitewater Development Corp., and Capital Management Services, Inc.

The distinguished leaders began good-faith negotiations on the appropriate timetable, procedure, and forum for those hearings.

The negotiations did not conclude successfully, and that is unfortunate. The leaders respectfully agreed to disagree. But that is not all that has happened.

After the distinguished Republican leader and the Senator from New York offered their resolution last month, the majority leader responded with his own resolution. That resolution represented a stunning reversal from the manner in which we conducted our oversight responsibilities during a whole host of matters during the last two administrations.

Those precedents include limiting the scope of the investigation to only three items, nothing having to do with the real issue of Whitewater, whether the Governor of Arkansas, Mr. Clinton, abused his power and contributed to the failure of a savings and loan that cost taxpayers more than $47 million.

Another precedent is what I call taking the Fiske, giving specific counsel appointed by the executive branch virtual veto power over the Senate's investigation of this matter. During the 14 years I have been in the Senate, the Senate has conducted or investigated at least 25 hearings having to do with alleged wrongdoings in the executive branch. Not once have we ever hid behind the independent counsel or special prosecutor. This is an alarming abrogation of our responsibilities.

That is not all. The majority leader, through the use of the second-degree amendments, refused to permit up-and-down votes to expand his resolution to include other aspects of the Whitewater matter. That is a serious infringement on the rights of the minority in the Senate, a very bad precedent for any majority leader to establish.

It has already been discussed here. Even the editorial pages of the New York Times last Friday took the majority to task for prolonging the uncertainty and raising the specter of a coverup.

I might mention, too—I said this last week; I urge my colleagues on both sides of the aisle to think about it—the procedures which the majority leader used last week could be repeated, it could be repeated on the other side. We may have a change in leadership in the Senate—maybe in 6 months. I would like to think that the minority would have the right to offer amendments and not automatically be in the second

degree where their amendments are not even offered, and certainly to be in the second degree, not by amendments that are germane to the pending amendment offered by the minority and basically offering the same amendment 10 or 12 times.

Today, the Republican leader and the distinguished Senator from New York have offered a resolution that bends over backward to accommodate the majority. It simply expands the investigation in one additional area where anyone "engaged in the illegal, improper or unauthorized or unethical conduct related to Whitewater, Madison, or Capital Management Services since Bill Clinton took office as President of the United States."

This forces us to put aside for now some of the most important questions about Whitewater. Did Governor Clinton receive illegal campaign contributions from a federally chartered savings and loan? Were federally insured deposits diverted to pay Mr. Clinton's Whitewater debts? Did the Clintons use Whitewater to underreport their income and avoid paying income taxes? Did then-Governor Clinton pressure an SBA-backed company into giving him an illegal loan that he may have benefited from as a Whitewater investor?

Each of those questions is related to a specific criminal statute of the United States Code. Those questions have been around for more than 2 years since the New York Times first broke the Whitewater story on March 8, 1992.

The Senate has voted to prevent any serious discussion or investigation of these matters, even if they come up in hearings we have already voted to begin next month. We will just have to wait a little longer for the answers.

The choice we have today is twofold: Do the Whitewater hearings begin on July 22 or July 29? And do they actually look into any aspects of Whitewater? These hearings should have begun a long time ago.

The first revelations into Whitewater occurred more than 2 years ago. The most recent revelations began before Thanksgiving. On the first day of winter, our leader and the Senator from New York asked the Banking Committee to begin hearings into the matter. Here we are, exactly 6 months later, and we are still debating. We should be ashamed of ourselves for this procrastination.

Some have suggested that a broader resolution would somehow interfere with the special counsel's investigation. No one wants to interfere with his investigation, and I have confidence that the Banking Committee or a select committee would have proceeded responsibly.

But broader hearings can actually help the special counsel do his job. One of the important aspects of the special counsel's investigation occurred as the result of information learned at a Banking Committee oversight hearing. We learned about a February 2 meeting at the White House set up by Deputy Treasury Secretary Roger Altman to give them a heads up on a criminal referral. So those who suggest that the Banking Committee or any committee would not move ahead responsibly, I think, is wrong. The facts suggest otherwise.

As I look at the difference between the new Dole-D'Amato resolution, and the one approved by the Senate last week, the differences appear minor. But there are some important questions, related to the Washington phase of the Whitewater investigation, that the Senate may pursue. They are matters that could not be brought up, or would be covered up under the majority leader's resolution. For example:

Were records destroyed?

On March 21, exactly 3 months ago, U.S. News & World Report quoted two Rose law firm employees as claiming to have shredded a box of documents marked with the late Vince Foster's initials, after Robert Fiske's appointment earlier this year. Under the Dole-D'Amato resolution, we can and should resolve that matter.

Whitewater's tax returns:

According to the Washington Post on January 21 of this year, it was reported that prior to Vince Foster's death, he oversaw the preparation of 3 years' worth of Whitewater tax returns that were filed late. It is a violation of the United States Code for a subordinate Federal employee to perform personal services when he or she is supposed to be doing his or her official duties. But that is not the real issue. The Clinton's have repeatedly said they were passive investors in Whitewater. Yet after the 1992 election, they took responsibility for 3 years' worth of tax returns that were not filed. It is also against the law not to file tax returns. Those are important issues we can pursue under the Dole-D'Amato resolution, but not under the majority leader's resolution. We should be able to ask about those tax returns.

The actions of Arkansas U.S. attorney Paula Casey:

Paula Casey was a campaign volunteer for Bill Clinton. Her husband was appointed to a State job by then-Gov. Bill Clinton. She was confirmed by the Senate as U.S. attorney for the Eastern District of Arkansas. Sometime after September 29 last year, U.S. Attorney Casey received a criminal referral from the RTC. On October 27, before the matter became public, she advised the RTC of her decision to forego an investigation due to "insufficient information."

But just as soon as the criminal referral was reported in the media, she recused herself, just days later. That is a possible violation of Department of Justice rules governing recusals. That also smells of a coverup, and we need some answers. Under the Dole-D'Amato resolution—but not under the majority leader's resolution—we can investigate that matter.

And what about the unusual circumstances surrounding the subpoena issued by the Justice Department for the Clintons' Whitewater files?

On the very day President Clinton Voluntarily offered to turn over this Whitewater records to the Justice Department, his personal attorney, David Kendall, negotiated a subpoena for those records to prevent their release under the Freedom of Information Act. That is highly unusual, if not unprecedented. The President has said that disclosure is the order of the day, but his lawyer negotiated with his own Justice Department for a carefully ordered subpoena to avoid the release of documents. That smells of a coverup, and we deserve some answers, and the documents should be made public.

And speaking of answers, the Dole-D'Amato resolution, as I read it, would permit us to investigate statements made by the President, Mrs. Clinton, and White House spokespersons in their official capacity. We need to know whether White House officials have acted unethically or perhaps illegally in their public pronouncements. We need to know those answers.

In less than 3 hours, we will bring this chapter of the Whitewater matter to a close. The choice is a simple one: Do we begin the process of conducting a real investigation into one phase of the Whitewater matter, or do we wash our hands of our constitutional responsibilities?

If we fail to pass the Dole-D'Amato resolution, we will handcuff ourselves in violation of the spirit, if not the letter, of our March 17 resolution, which called for hearings into all matters related to Whitewater. We will perform a disservice to ourselves, through the incredibly bad precedents we set, including giving the special counsel veto power over our own investigation. We will perform a disservice to the President and Mrs. Clinton, who need to get this matter behind them, and quickly. But most importantly, we do a disservice to the people who sent us here to do a job.

We have a constitutional responsibility to conduct oversight over all matters related to the operations of Government. We have let them down. They deserve better, and it starts today with a "yes" vote on the Dole-D'Amato resolution.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. Before the Senator begins, the Chair notes that the Republican leader has 6 minutes 45 seconds remaining for debate.

The Senator from Alaska [Mr. MURKOWSKI], is recognized.

Mr. MURKOWSKI. Mr. President, I rise to speak in reluctant support of

the compromise amendment that is now being offered by the Republican leader and the distinguished Senator from New York [Mr. D'AMATO].

I am supporting this amendment only because it provides a modest beginning for Senate hearings that will ultimately provide the public with some of the answers to questions concerning the Whitewater affair.

I would have preferred a broader makeup of the committee as originally proposed by Senator D'AMATO and Senator DOLE. A committee that was made up primarily of the banking members, but also had members from other committees who would have special expertise. For example, on the matter of the Foster death that occurred on Park Service land, a member or two from the Energy Committee that has oversight would have been appropriate. Several months ago, I requested of the Park Service a copy of their initial investigation, and that has been unavailable. In any event, we are left with—as a consequence of decisions made by the majority leader—a take it or leave it proposal, which is better than nothing.

Unfortunately, the problem we are facing, and the obligation we have to the American people, is that when we are through, we are not going to be able to answer the core questions surrounding Whitewater. The committee will not be able to determine why Madison failed; nor will it be able to determine if federally insured deposits at the failed Madison Guaranty Savings were diverted to Governor Clinton's 1984 campaign; nor will it be able to determine whether federally insured Madison deposits were diverted to pay the Clintons' share of their Whitewater debts; nor will it be able to determine whether after Madison became insolvent, if favoritism, conflict of interest, and a false financial audit presented to State regulators by the Rose law firm permitted Madison to remain open.

These questions will not be answered for the simple reasons that our colleagues on the other side of the aisle will not permit a full-blown investigation this year. It appears they are quite satisfied to stonewall on these issues for as long as possible in the hope that they can make it through the midterm elections without having to deal with damage-control related to Whitewater.

However, this strategy of delay, in my opinion, is sure to backfire. It guarantees that the Clinton administration will be mired in Whitewater politics in 1995 and possibly in 1996. It may be good short-term politics to delay Whitewater hearings, but in the long term, it is likely to cause even more serious problems for the administration.

Mr. President, Democratic stonewalling on Whitewater will not make the issue go away. Republicans may have lost 10 party line votes last week on broadening the scope of Whitewater hearings, but the persistence of the Democratic intransigence on this matter is beginning to be noted by the press.

We all read last Friday's New York Times, and the lead editorial, entitled "Running for Cover on Whitewater," put the issue of Whitewater hearings in blunt perspective when it stated in its opening sentence, "Senate Democrats are rushing toward a partisan cover-up of the Whitewater affair."

This is the same New York Times that endorsed President Clinton in 1992 and generally has been sympathetic to elected officials in the Democratic Party.

Would congressional hearings interfere with Special Counsel Fiske's investigation? As I have stated numerous times on the floor of the Senate, we have held hearings simultaneously with independent counsels in the cases involving Anne Burford and the EPA Superfund, Michael Deaver and Iran Contra, and BNL Bank, and BCCI.

As the Times noted in its editorial:

> It is hard to see how a broad congressional inquiry could seriously hinder [Mr. Fiske]. It might even help; past congressional hearings have made the prosecutor's case even stronger.

Finally, I note what the Times had to say about the piecemeal, drag-out approach to hearings that the Democratic majority repeatedly supported:

> This path does not serve the public or the President. It leaves unanswered questions that voters deserve to have answered. It prolongs the uncertainty that has damaged this Presidency from day one of the Whitewater affair and hands the GOP a new—and legitimate—cover-up issue.

Mr. President, I believe that a year from now the Democrats are going to regret that they have taken this staggered approach to the hearings. As I have said for months, it would be far better for the President and the public to find out the facts associated with Whitewater as soon as possible. We have to get this matter behind us. Further delay serves no one, least of all the President of the United States.

Mr. President, I ask unanimous consent that the June 17 New York Times editorial be printed in the RECORD.

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

[From the New York Times, June 17, 1994]

RUNNING FOR COVER ON WHITEWATER

Senate Democrats are rushing toward a partisan cover-up of the Whitewater affair. They have voted to hold narrowly circumscribed hearings in the Senate Banking Committee, which they dominate. They are therefore likely to prolong the agony of the President they hope to protect.

By a 56-to-43 vote, the Senate decided to limit hearings next month to three elements of the case. One is the U.S. Park Police's investigation into the death of Vincent Foster, Jr., the Deputy White House Counsel. Two, the way in which members of the White House staff disposed of Mr. Foster's Whitewater files. Three, whether the White House officials tried to manipulate Treasury Department investigations into Madison Guaranty Savings and Loan.

This agenda focuses only on White House behavior after Bill Clinton became President and excludes far more important questions about what happened in Arkansas before he and Mrs. Clinton reached the White House.

To recapitulate: Did James McDougal, a Clinton crony who headed Madison, receive favorable treatment from a bank regulator appointed by then-Gov. Bill Clinton? Were Madison funds used to pay off Mr. Clinton's 1984 campaign debt? Were funds in Madison accounts diverted to the Whitewater Development Company? How much did the Clintons pay for their half-share of Whitewater? Did they receive financial benefits that they should have reported as taxable income?

In short, the Democrats have chosen to ignore precisely those dealings that have raised suspicions that the Clintons may have profited from favors dispensed by people who had something to gain from them. They have also shown no interest in Mrs. Clinton's commodities trading, or the possibility that an artful broker may have given her favorable treatment. The special counsel investigating Whitewater, Robert Fiske, has likewise shown little interest in this issue.

The Democrats say their timid agenda results from a desire not to undermine Mr. Fiske's inquiries. They also promise to get to the Arkansas questions next year—safely after the midterm elections. In March, this page argued against a partisan circus and agreed that hearings should be delayed until Mr. Fiske got his feet on the ground. But we also said the delay should be measured in weeks, not months. Mr. Fiske has now had time to learn the basics of the case, both in Washington and Arkansas; it is hard to see how a broad Congressional inquiry could seriously hinder him. It might even help; past Congressional hearings have made the prosecutor's case even stronger.

We also noted that Mr. Fiske could not expect Congress to abdicate its oversight responsibilities. The banking committees have a legitimate interest in the behavior of Federal bank regulators and the Arkansas bank regulators in regard to Madison and its dubious lending practices.

House Democrats are expected to follow the Senate's narrow path. This path does not serve the public or the President. It leaves unanswered questions that voters deserve to have answered. It prolongs the uncertainty that has damaged this Presidency from day one of the Whitewater affair and hands the G.O.P. a new—and legitimate—cover-up issue.

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

Mr. D'AMATO. Mr. President, How much time do I have?

The PRESIDING OFFICER. The Senator has 1 minute 30 seconds remaining.

Mr. D'AMATO. Mr. President, I will ask that when we go into a quorum call, that we not charge the time equally. We have no time. I ask that I be permitted to save our 1 minute 30 seconds until the last 10 minutes before we vote, and that any quorum call at the time be charged against Senator MITCHELL's time.

The PRESIDING OFFICER. Is there objection to the request?

Mr. PRYOR. Mr. President, reserving the right to object, I do not understand

why the quorum call should be charged against Senator MITCHELL's time. The Republicans have been on the floor all morning speaking on this, and if they want to charge the time equally——

Mr. D'AMATO. Mr. President, I only wanted to save the remaining 1 minute 30 seconds. The impact of it is to say that you will permit me to keep my 1 minute 30 seconds down to the last 10 minutes; that is why. Senator MITCHELL was not here. I would have preferred that he or other Democrats be on the floor, but I understand there is pressing business. I am only trying to preserve the 1 minute 30 seconds that I have so I might speak before we conclude at 1 o'clock. Otherwise, as soon as a quorum call goes in, if the time is charged equally, I will have no time remaining.

Mr. PRYOR. Mr. President, the majority has no hesitation in allowing Senator D'AMATO from New York to reserve 1 minute 30 seconds to close. But we want the Senator to know and the Senate to know that we do have a time certain to vote on this particular matter.

Mr. D'AMATO. I thank my colleague.

The PRESIDING OFFICER. The time of the Senator from New York is reserved.

Mr. PRYOR. 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. PELL. 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. PELL. Mr. President, I ask unanimous consent that I be allowed to proceed as if in morning business.

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

The Senator is recognized.

NORTH KOREA: TIME TO GIVE DIPLOMACY A CHANCE

Mr. PELL. Mr. President, President Jimmy Carter's recent meetings with the North Korean President Kim Il-sung provide a welcome breathing space for diplomacy to resume between the United States and North Korea.

Until the agreements achieved by President Carter, I had become concerned that the situation was heating up to an intensity that was leading us once again to war on the Korean Peninsula.

I hope President Clinton welcomes the progress made by President Carter and builds upon it.

Certainly, the situation was, and remains dire. The North Koreans had withdrawn at an accelerated rate fuel rods from their 25-megawatt thermal reactor at Yongbyon, leading to speculation that they would shortly begin reprocessing into plutonium a substantial amount of nuclear fuel. At the same time they had hindered the work of International Atomic Energy Agency [IAEA] inspectors who were trying to maintain the continuity of existing nuclear safeguards and to verify possible previous North Korean nuclear activities. As a result, the United States had begun consultations with U.N. Security Council members with the goal of phasing in a series of sanctions against North Korea.

It is against this backdrop that President Clinton's decision to endorse the visit by former President Carter to North Korea must be seen. President Carter's political background, as well as his prior military training in the nuclear field, and his role as an international conflict mediator through his work at the Carter Center in Atlanta gave him unique qualities for this very special mission.

By gaining North Korean agreement to freeze their nuclear program while discussions with the United States resume, an agreement to permit joint American-North Korean teams to search for the remains of missing-in-action from the Korean war, and in addition to renew the North-South dialog which the North Koreans had called off last November, President Carter has achieved a significant breathing space that must now be enlarged through additional diplomacy.

The ball is now in the North Korean court as a result of their promises to President Carter. While the North Koreans gained the prestige of an American President visiting their homeland, the visit provided them with a face-saving means to maintain IAEA safeguards without having appeared to have given into the threat of American sanctions. The publicity attendant to President Carter's trip now puts the onus upon the North Koreans to fulfill their promises to the former President.

The Clinton administration is now in the process of following through on these promises. While it is by no means the end of the North Korean crisis, it is a major opportunity to test North Korean intentions. There can be no doubt that the negotiations will be long and protracted, but as long as IAEA inspectors remain on duty and nuclear fuel rods are not removed from the pools where they now lie cooling, President Carter should be applauded for giving the world more breathing space from the brink of war.

As I said, I hope that President Clinton will welcome the progress made by President Carter and seek to build upon it.

AUTHORIZING OVERSIGHT HEARINGS BY THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

The Senate continued with the consideration of the resolution.

Mr. PELL. 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. PRYOR. 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. PRYOR. Mr. President, as we return now to the so-called Whitewater debate on the floor of the Senate, I would like, if I might, Mr. President, for a few moments to outline basically where we have been in this debate, where we are now, and, hopefully, where we intend to go.

First, I would like to state that it appears that our colleagues, for one reason or another, have some sort of fixation attached to the issue of the so-called Whitewater affair. This fixation is demonstrated in the simple fact that the U.S. Senate has been in session 73 days this year and that our colleagues on the other side of the aisle have taken to the floor of the U.S. Senate and they have made some 62 speeches, 62 appearances, taking up the time of the U.S. Senate to basically forge a political issue and to promote a political goal.

Mr. President, this debate today is certainly not and should not be couched in what would be the limitations or the restrictions of a hearing relative to the Whitewater affair. At least that should be very clear in all of our minds by now. The Whitewater issue, Mr. President, has been voted on on nine separate occasions, including language which is going to provide for the avenue for additional hearings into additional matters that relate to the Whitewater issue. On many occasions on the floor of the U.S. Senate, the distinguished majority leader has stated over and over and over again that, one, we will meet our constitutional obligation as a Senate to get to the bottom of this issue; two, that we will at all times adhere to the original agreement adopted by a vote of 98 to nothing on March 17; and that we will continue to follow the advice and the admonition of Mr. Robert Fiske, the special counsel or the special investigator into the Whitewater matter. And that admonition, Mr. President, is something we know. It is something our colleagues on the Republican side of the aisle know. That admonition is very simply not to begin an investigation in Congress until phase I of the Fiske investigation has been concluded.

It seems that we would learn from past mistakes of the legislative branch being too eager to move into areas while another investigation is being held into a similar matter. We should have learned that lesson from the Iran-Contra matter. I would like to quote from an editorial, Sunday, June 19,

1994, from the Washington Post. I will only quote the last two paragraphs from this particular editorial.

While the proposed hearings will cover events in the Clinton Presidency, the Senate majority leader has given assurances of additional hearings on issues that cover the Clintons' political and business lives before the White House. It is no abdication of Congress' oversight responsibility to be mindful of the pitfalls of simultaneous probes.

The final paragraph from the editorial:

Congress ought to avoid hearings that might interfere with the prosecutorial efforts to compile admissible evidence leading to convictions. Iran-Contra taught that lesson. Why the rush? The Clintons aren't going anywhere. Senate Democrats should hold firm.

Once again, on nine occasions this body has voted and stated that we will hold additional hearings at the appropriate time relating to any and all issues in the Whitewater matter. Also, I think it should be noted at this particular time that the special counsel, Mr. Fiske, in writing to the Senate Banking Committee on March 7, requested that:

[The] committee not conduct any hearings in the areas covered by the grand jury's ongoing investigation, both in order to avoid compromising that investigation and in order to further the public interest in preserving fairness, thoroughness, confidentiality of the grand jury process.

Mr. President, I think that the resolution that has been proposed by the majority leader is not only a proposal that deals in good faith, I think it deals in good common sense. It will protect the testimony of those individuals who might or might not be called before a grand jury. It also provides for an effort, a concentrated effort, to find every possible and conceivable fact and put out in the open those facts that might relate to the Whitewater issue.

Once again, our majority leader has repeatedly emphasized in his public and private statements that he and the Senate are and have been firmly committed to meeting the constitutional obligation to conduct oversight and committed to full and complete public hearings.

Also, I do think—without questioning the motivation behind any of the language as proposed by our Republican friends on the other side of the aisle—I do think what would be happening, should we adopt the resolution offered by the Senator from New York and the Senator from Kansas, the minority leader, is without question this would lead this body and the Senate Banking Committee off on a fishing expedition; a fishing expedition into any activity by any person which is illegal, improper, unauthorized or unethical, which is related to the Whitewater matters and occurred after January 20, 1994.

The inclusion of the words "improper" and "unauthorized acts," is a particularly broad and vague description of what would be the authority of the particular committee, the Banking Committee in this instance, in dealing with this issue. I think this language might well expand—broaden the scope of these hearings into matters potentially under investigation as part of the ongoing inquiry by the special counsel in Little Rock and elsewhere. On the other hand, the majority leader's resolution provides for the hearings to conclude and for a report to be made to the Senate by the end of this session of Congress. The Republican resolution is open-ended. There is no requirement for the committee to complete its work on any particular date. It could go next year, the following year, the year after that, and into the next century, theoretically, if the Republican resolution were to be adopted.

I also believe that we are facing an issue before the Senate at this time where we must step back and once again look at what has really happened, and not fall victim to some of the hyped-up allegations that we are hearing from the other side of the aisle. Many times on the floor of this body in the last several weeks we have heard the word "coverup." We have heard the words, "political crony." We have heard the question, "What do they have to hide?" The best of all I think, Mr. President, is when one of our colleagues on the other side of the aisle have indicated that the real reason for this issue surfacing on the floor of the Senate at this time is to come to the aid of the President, to try to help the President through this particular issue—so he can have a successful administration, which I suppose is the inference we would draw.

I would like to address that for just a moment. I would like to state this President, I think—and I totally believe the American people feel—has forcefully addressed the questions which have arisen in the so-called Whitewater issue. The President of the United States has faced questions from the media on many occasions, including a major press conference that the President held just on the issue of Whitewater. All of us remember that press conference. In fact, I found there were very few questions posed by the media during that particular hour in that historic press conference that really went to the heart of what Whitewater was all about. I thought the President handled himself well and, in fact, I think the media description of the President's reaction to the questions was very, very fair indeed. He reassured the American people. He has taken the necessary steps to assure there will not even be an appearance of interference that might be wrong in the investigation by anyone in the White House.

The First Lady has also addressed this matter in an unprecedented and extensive major press conference back, I believe, during the month of May, when Mrs. Clinton appeared before a national press audience and was interrogated about her role or alleged role in the Whitewater events. I strongly feel she answered those questions directly and honestly while looking us and the camera right in the eyes. Mrs. Clinton answered those questions proposed recently by special counsel Robert Fiske, under oath, for over an hour. This was in an interview in the White House.

The President and Mrs. Clinton have now appeared before Mr. Fiske, and we believe strongly on this side of the aisle that this part of the investigation should not be damaged, it should not be compromised by any action that the U.S. Senate might take. Let us all be assured that the investigation by the special counsel is continuing.

It is an ongoing investigation. It is an ongoing investigation where we are about to see, if I am not mistaken, the conclusion of phase I of the investigation. Therefore, under the agreement that we have with Mr. Fiske, it will soon be time for us in the legislative branch to look into the facts in phase I of this particular matter.

Let us remind our colleagues on the other side of the aisle that the special counsel in this case is a Republican. He is not a Democrat. This is a serious matter and Mr. Fiske is a serious man. Mr. Fiske is a man of unquestioned ability as a prosecutor, as an attorney. Once again, he is a Republican. In fact, when his appointment was made, our friend, the Senator from New York, was the very first Senator who came forward to express his unqualified support for this appointment. Senator D'AMATO said that "He"—Mr. Fiske—"is a man of uncompromising integrity and he will unearth the truth for the American people."

These are the words of the Senator from New York. Mr. President, I will only state as a follow-on that we need to allow Robert Fiske, the special counsel, to continue to do that job. Many of the same individuals, many of the same Republican Senators on this side of the aisle who called for a special counsel shifted their partisan gears as soon as he was named and began to call for immediate congressional hearings simultaneous to the investigation that was being conducted by Mr. Fiske even at that particular moment.

Even in the face of that very counsel's opposition to any simultaneous Whitewater hearings, Republicans continued to come to the floor of the Senate—in fact, on 62 occasions—on 62 occasions, in 62 speeches, they have come to the floor and said, "Oh, we have to have full-fledged immediate hearings." It does not matter that the special counsel is in the process of conducting a hearing. It does not matter that what the Senate might do could actually

compromise the evidence, and the statements and the information that are being taken at this point and in this particular phase, by Mr. Fiske.

Even in the face of the counsel's opposition to any hearings that go beyond the scope of what we have agreed to on March 17, our Republican colleagues on the other side of the aisle, on 62 occasions, I remind the Presiding Officer and our colleagues, continue to demand that the Congress go forward in a way that risks damage to the investigation which the special counsel has begun.

There is another little thing that is happening over here, and I think I ought to make note of it. I am sorry that my friend, Senator NICKLES from Oklahoma, is no longer on the floor. Every few hours or so, there seems to be a pattern that has developed, a pattern of throwing someone's name out. Maybe just a little raw meat from time to time they throw out on the floor and indicate maybe that someone has done something wrong.

We can say anything on the floor of this Senate about anyone. We are protected. We have immunity. Now, if we go outside of this Chamber, if we go out in front of this Capitol, on the steps of this Capitol in the public forum, then we can be held accountable. We can be held accountable as individuals. No longer are we given the protective cloak of "speech and debate" that we have while we are in the so-called sanctity of the Chamber of the U.S. Senate.

Senator NICKLES a while ago just threw out the name of Paula Casey, U.S. attorney in Little Rock. "Maybe we better look at Paula Casey, the U.S. attorney down there in Little Rock. Let's see if she didn't do something wrong in the handling of this particular matter," he said.

Our friend from North Carolina, Senator FAIRCLOTH, last week got up on the floor and started castigating a fine person, a fine lawyer, one who has done her duty as a public official, as a public servant in the State of Arkansas, Beverly Bassett Schaffer, who is known throughout our State as one of the most prominent female lawyers in our State; in fact, one of the most prominent lawyers in our State. Always throwing someone's name out to be used as a matter of public speculation in the sense that perhaps they have done something wrong, maybe we ought to look at them.

But the bottom line, Mr. President, in this debate is that in the Republican resolution there would be no breaks; there would be no restrictions; the sky would be the limit; there would be no reporting date, no date to conclude the hearings, no time certain for a report to the U.S. Senate on the findings—a total open-ended proposition as offered by the Senator from New York and his colleagues on the floor of the Senate.

Mr. D'AMATO. Mr. President, will——

Mr. PRYOR. I will not yield at this time. The Senator from New York, by the way——

Mr. D'AMATO. I was just wondering if my distinguished colleague will yield for a question on that point.

Mr. PRYOR. I am going to conclude my remarks first.

Mr. D'AMATO. Certainly.

Mr. PRYOR. I am going to conclude my remarks, but I want to first note that the Senator from New York has already spoken 19 times on Whitewater, on the issue.

Mr. D'AMATO. I just was wondering if the Senator would yield for a question at some point.

Mr. PRYOR. The Senator from New York can ask the Senator from Arkansas a question when the Senator from Arkansas finishes his statement.

Mr. D'AMATO. Certainly.

Mr. PRYOR. I, frankly, am about through with my statement, Mr. President.

The PRESIDING OFFICER. The Senator from Arkansas has the floor.

Mr. PRYOR. Mr. President, I have heard a lot of times on the floor also about, "Well, here's what we did in Watergate; we had a broad umbrella of issues that we could look into." Then we hear a lot about—from this side of the aisle—what we did in the Iran-Contra hearings.

Once again, a huge umbrella of what we could look at. But, Mr. President, each of those instances relative to Watergate, relative to Iran-Contra, were issues that impacted and related directly to the issue of national security—national security.

This issue of Whitewater is not an issue of national security, to the best of our knowledge. No one has ever even brought up that it should be looked upon in the same vein or with the same degree of concern that we all had in years past with Iran-Contra and also with Watergate.

Mr. President, this afternoon should conclude what we must do, once again, to exercise our obligation, to recognize that obligation. The majority leader certainly on this side has stated that we recognize that obligation and that we have to deal with it, and we are going to deal with it. We have proposed the way to deal with it. We have proposed the timing of how it should be dealt with, and we think that timing, Mr. President, represents a good approach, a sound approach, and an approach that the American people will accept.

I think the Senator from New York had a question. I will be glad to yield for a question.

(Mrs. MURRAY assumed the chair.)

Mr. D'AMATO. Certainly. I thank my colleague for that. I do not question the sincerity of my colleague's arguments. We are saying that when Mr. Fiske has completed the Washington phase of his investigation, we can then go forward in those matters covered. Then why would we not permit the committee, whichever committee is set up to hold these hearings, to examine whether or not the Office of Thrift Supervision—OTS—has had anyone interfere or attempt to interfere with a possible investigation of Madison? And we are talking about after January 20, 1994. So we are not talking about going into matters prior to the administration taking office. But the question is whether or not there was any attempt by anyone from Treasury that attempted to preclude Mr. McCormally from going forward. I do not know whether this was the case, because Mr. Fiechter wrote to me and said that he certainly never met with Mr. McCormally. Would we not be interested in ascertaining this information?

The leader's resolution or amendment does not give us the ability to examine it. Does the Senator think that that would be within our scope?

Mr. PRYOR. Madam President, I am very glad that the Senator from New York has posed that question, and I would answer that with two quick points.

One, Mr. Fiske has not indicated that those issues raised by the Senator from New York are issues that he will be looking at in the first phase of his investigation. Therefore, for us to move forward with an investigation into the matter that the Senator from New York has raised on that subject I think could possibly impede the investigation being conducted by Mr. Fiske and ultimately perhaps by the grand jury.

Second, I might say, Madam President, in response to the Senator from New York, what we are faced with here is not a question of limiting an investigation, as I have stated in my remarks and as the majority leader has stated in his remarks and as we have voted on eight or nine times, I think it is eight times by the majority of the Senate. We are not limiting this debate. We are only limiting this phase of the debate.

Mr. D'AMATO. To the Washington aspect.

Mr. PRYOR. That is correct. And this is a proper thing to do at this particular time.

Mr. D'AMATO. So my question is——

Mr. PRYOR. Acceding to the request of the special counsel, Mr. Fiske.

Mr. D'AMATO. So my question is, if Mr. Fiske has no objection and has covered OTS in his Washington scope—I have not been told that he has not covered it—then would not the OTS properly fall within the realm of this inquiry. These matters have occurred subsequent to the President taking office, should that not be a legitimate matter of inquiry?

Mr. PRYOR. Madam President, in response to the Senator from New York,

let us remember that the majority leader's proposal has been tailored to accommodate what Mr. Fiske has stated that he would be investigating at a particular time.

Mr. D'AMATO. Yes.

Mr. PRYOR. In the March 17 resolution so adopted by 98 of our colleagues, including the Senator from New York and the Senator from Arkansas, we all agreed that the scope of this investigation could be broadened, and perhaps by implication would be broadened, at the appropriate time. It is a matter of when, I say to my friend from New York.

Mr. D'AMATO. I understand that, and that is what brings about some concern. Because it would seem to me to be almost evident on its face that if Mr. Fiske has completed that area of his investigation of the so-called Washington-side, including whether or not Treasury people have attempted to impact OTS in its decision, then that would be a matter that we should be able to look into. That is the Senator's point. I hope the Senator would agree with me on that.

Mr. PRYOR. Madam President, I think it is a valid issue that the Senator has raised. But I think that question is going to have to be answered, posed, and disposed of at another time.

Mr. D'AMATO. As a matter of fact, I have already instructed staff to write a letter to Mr. Fiske inquiring of him whether or not he has pursued the matter of OTS and whether or not there was any influence exerted. He will make his response, and if his response is that they hope to have that matter concluded in the initial investigation, then we could, as a matter of comity and fairness, at least examine that issue.

Mr. PRYOR. Madam President, I am confused because right after Mr. Fiske was appointed to this position, it was the Senator from New York, the junior Senator from New York, who applauded the choice—I just put his statement in the RECORD. He stated he was a very fine appointment, and he proclaimed also that this is a man who is going to get to the bottom of this matter, and I believe that. I do not know that we ought to start telling Mr. Fiske what to investigate right now and what not to investigate.

Mr. D'AMATO. I do not question the statement I made. I stand by it. I still think he is a man of great integrity and ability. That is not the question.

The question is, if he has concluded the Washington part of his investigation and has no reluctance to us going forward—and OTS has been part of it—then should we not be able to make inquiry as it relates to OTS? It seems to me that that would then be the question. We should have the ability to go forward.

I cannot tell Senators that I know that Mr. Fiske has covered OTS. I do not know that. I have not posed the question to Mr. Fiske. But I intend to pose that question to him. Certainly I think it is not inappropriate to do so. I will send a copy of that letter to the chairman of the committee.

I am wondering if my good friend knows that in the book "Men of Zeal," which is coauthored by the majority leader and Senator COHEN, as it relates to deadlines, the leader said—let me quote if I might. It is very short. It is written: "Fourth, setting fixed deadlines for the completion of congressional investigations should be avoided."

He goes on to say: "But such decisions are often dictated by political circumstances and need to avoid the appearance of partisanship."

He concludes by saying: "We hope that in future cases such an artificial restraint on the pursuit of facts will not be necessary."

Mr. PRYOR. Madam President, I was not aware that Senator MITCHELL and Senator COHEN stated anything about deadlines. I am sorry I did not. I do not know how it relates to this particular issue. But I will conclude, and I am going to yield the floor because my friend from Kentucky wants to make a statement, Senator FORD, but I will just yield by saying that we spent millions upon millions of dollars in the Iran-Contra investigation. And I think it went on for how many years—2, 3, 4 years? We just felt that there had to be a cutoff point where this particular committee would conclude something. And if it did not conclude anything, then it could write the report that it was inconclusive, but at least force the body to give us a report in the Senate, account for the money expended, give us the facts as they saw them, and put the issue to rest.

Mr. President, with that, speaking of putting this issue to rest, I am going to take a rest and I am going to yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PRYOR. Madam President, how much time do we have remaining?

The PRESIDING OFFICER. The majority leader controls 48 minutes 30 seconds.

Mr. FORD. Will the Senator yield me 10 minutes?

Mr. PRYOR. I will be glad to yield 10 minutes. In fact, if I might, Madam President, with the consent of the Senator from Kentucky, I will just yield the floor to him. I am not controlling time. And I do think Senator MITCHELL certainly wants to reserve some time. The Senator from Kentucky can take all the time he so desires.

Mr. FORD. Thanks very much. I will be sure the majority leader has some time left because I can hardly wait.

Madam President, let me begin my remarks this morning by reading a portion of the speech radio personality Garrison Keillor gave to the National Press Club back in April when the Whitewater frenzy was at its peak. He said, and I quote:

> The Whitewater story has run for months on the power of suggestion. With any shaggy-dog story like this one, whose point is its pointlessness, people became fascinated by the fact that they are still standing and listening to what apparently is a long, winding circumstantial joke that the teller keeps complicating by tossing in new unrelated elements—things we don't know that may be true, and, if they are, then other things that may be true.
>
> * * * And now the story dwindles to a few scraps—the possibility of inconsistencies in statements about things that nobody ever suggested were wrong to begin with. The American people are setting on the bleachers waiting for the elephant to come out, and all we see are the guys selling cotton candy.

Keillor is right. There is no elephant. There is only the circus atmosphere. There is only carnival barkers promising all sorts of outlandish exhibits inside their tents.

But you and I know the truth usually has little resemblance to the barker's hype.

Despite the fact that we do not have much more than speculation and innuendo, Democrats and Republicans agreed back in March on a process to provide a fair and dignified—I want to underscore "dignified"—congressional forum to examine the facts.

At that time, Democrats and Republicans voted unanimously for hearings structured and sequenced in such a manner that in the judgment of leaders they would not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr. I do not see how anything could be any clearer than that.

Now the Republicans are saying that is not good enough—that a 98-0 vote is irrelevant.

But I guess none of us should be too surprised by this. Back in early January, the Republicans were demanding that a special counsel be brought in. On January 12, the President expressed his agreement with the need for a special counsel to dispel any question of impropriety. Before the sunset, the Republicans were holding a press conference demanding the creation of a Senate Select Committee. They have been drawing and redrawing lines in the sand ever since.

Despite the fact that we have an independent counsel already using scarce taxpayer dollars to investigate every aspect of this matter, this body decided to hold a congressional hearing. Yes. It was a compromise. But it was a necessary compromise that would not jeopardize the efforts of the special counsel—special counsel, I might add, who is a lifelong Republican—we have heard that—and whose appointment was hailed by the Republican Members of this body. It could not have been any better.

As everyone here knows, Special Counsel Fiske requested, both in writing and in meetings with Senators, that the Senate not conduct hearings which could interfere with his investigation. He specifically asked that since his investigation is being conducted in two phases, the Senate's hearings be conducted in two phases as well.

These are not unreasonable requests, Madam President. These are not requests that call on the Senate to abdicate its constitutional responsibilities.

These requests acknowledge certain Members who do not believe one independent investigation is enough. But they also acknowledge that congressional hearings have the potential to jeopardize the special counsel's efforts.

These are not unreasonable requests. But do not take my word for it. Trust the word of a fellow Republican.

According to an April 16 Boston Globe editorial, Representative JIM LEACH, the ranking member on the House Banking Committee, who they describe as the "most credible critic" on Whitewater, "wants hearings delayed until the special counsel finishes inquiries this summer."

Something does not ring just right here when we find so much furor here. But let me read that statement again.

According to the April 16 Boston Globe editorial, Representative JIM LEACH, the ranking member of the House Banking Committee, who they describe as the "most credible critic" on Whitewater, "wants hearings delayed until the special counsel finishes inquiries this summer."

Somehow or another, the House, both Democrats and Republicans, came together on basically the same position that majority leader MITCHELL has proposed. They did not have the rancor. They did not have the speeches. They say, well, the Democrats control everything over there. Well, if they control what BOB MICHEL says and does, that is unusual. I guarantee you they do not control the Congressman from Georgia, Congressman GINGRICH, and what he says. You just cannot say that they are two controlled individuals by Democrats. They came together in a public statement, and they are proceeding in the proper manner.

Perhaps what Representative JIM LEACH said is why House Republicans and Democrats agreed to the hearings essentially identical to the format outlined by our majority leader, Senator MITCHELL; limited to three areas, and conducted by the House Banking Committee.

The editorial goes on to say that "even Leach acknowledges that Republicans should not let Whitewater impede legislation on health care, welfare, and crime."

And therein lies the true issue today, Madam President. If we learned one thing from the elections of 1992, it was that the American people are tired of gridlock and inefficiency in Congress. They wanted representatives who were willing to tackle crime, to tackle health care, to tackle welfare reform.

How do we demonstrate this? By barely passing a bipartisan aviation bill, because Senators trying to score political points effectively ground the business of this Chamber to a halt.

Yes. This is about character, Madam President. It is about having the character to do the people's business.

I do not know a better measure of strong character than a President willing to tackle issues like health care, crime, and welfare. He took on these issues knowing full well what the odds were for success.

These last 2 weeks the Senate has countered that demonstration of character and courage with gridlock and political posturing.

Perhaps the editorial page of the Los Angeles Times put it best when they said:

"Some Republican leaders may want a crippled President, but ordinary American citizens do not, rather many appear to be growing weary of the recurring cycle of allegation, cover, hearings, and investigations that seem to sap so much of our national vitality.

Madam President, if the Senate really wants a circus, we have all of the ingredients right here, including the clowns. But I do not think that is what we really want. Instead, let us show the American public that they did not make a mistake in sending us here and that we have the strength of character it takes to tackle issues like crime, health care, and welfare reform. That is what the people want us to be doing, that is what the people expect us to do, and that is the character that this body ought to express.

I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Ohio?

Mr. FORD. How much time does the Senator need?

Mr. METZENBAUM. I need 10 minutes.

Mr. FORD. Madam President, under the authority given me, I yield 10 minutes to the Senator from Ohio.

Mr. METZENBAUM. Madam President, I have been around here about 19 years, and, frankly, I am disturbed at the tenor and tone of this debate. I think it is an embarrassment to the U.S. Senate that we are playing this game over and over and over again on the so-called Whitewater issue.

We have resolved that issue. There will be hearings, there will be an investigation, and there will be additional hearings, if they are necessary, and that is all provided for. But instead, some on the opposite side of the aisle think there is great political mileage in this.

This country really does not support this. Maybe Rush Limbaugh and some of those right-wing commentators support it. But the reality is that the American people are concerned that we are to do something about health care in this country; we are to do something about welfare reform; we are to concern ourselves about some of the problems overseas. And this whole to-do about Whitewater has been up and down and backwards and forwards in the Senate. The Senate has passed legislation on it. But notwithstanding that, Members on the other side of the aisle have spoken on this subject 63 times—63 times—and I say it was for no other purpose than attempting to get some publicity out of it, not for any meaningful purpose.

The distinguished Senator from New York has had three speeches on crime and 19 speeches on Whitewater. I think that, if he reversed that, that is what the American people are concerned about—resolving the problems of crime in this country—and they are less concerned about the Whitewater investigation, which is in the hands of an independent counsel and on which there is going to be hearings in the U.S. Senate, as well as in the House of Representatives.

The distinguished minority leader has had 8 speeches on crime and 10 speeches on Whitewater. What are the concerns of those of my fellow Senators on the opposite side of the aisle? Do they not understand that this is not what the American people sent us here to deliberate about? They sent us here to solve the problems of this country, to solve the problems of seeing to it that every American has a chance for decent health care, to solve the problems of seeing to it that every American has a chance for a job. But the fact is that there are millions of Americans that do not have jobs, and we are working on discussing Whitewater—we are not working on it, we are discussing it, talking and talking and talking. It demeans the Senate. It is a reflection upon the character of this body to try to exploit this particular issue.

Madam President, I say that this is not the way the U.S. Senate ought to conduct its business. We have so many important pieces of legislation. We go into the crime bill conference this afternoon, and it is a very controversial measure. We are moving onto the whole question of striker replacement, where workers throughout the country, even as we meet today, are going on strike and employers are bringing in replacements—contrary to that which they have done over the past 50 years—to take their jobs because they had the audacity to strike. We have important legislation to deal with. We have health care legislation to deal with. We have education legislation to deal with.

But what is the Senate tied up with? The Senate is tied up with my colleagues on the other side of the aisle being anxious to come to the floor and

beat this particular issue, beat it, beat it, and beat it—the Whitewater issue—hoping they are going to somehow embarrass the President of the United States. Ask the American people about how many are concerned about Whitewater, and it will be a very insignificant amount. Ask them how many are concerned about solving the problems of crime. There will be a much larger percentage. Ask them about solving the health care problems of this country and you will find a large percentage. Ask them how many of them are concerned about employment in this country, and you will see a large percentage.

Nobody is doing anything on the other side of the aisle that I can see about temporary workers taking over jobs of Americans in this country. The largest single employer in this country, as we meet here today—that being Manpower, Inc.—are supplying temporary workers that are called upon to do their jobs without any protection as far as health care is concerned, without protection as far as medical leave or family leave, without any other protection of their job; they are called in for a few hours to do their job, and not a person on the other side of the aisle speaks up on that.

I think it is time for my colleagues on the other side of the aisle to take stock of themselves. You are a very decent group of people. Many of you are very able legislators. But the fact is that we are wasting the time of the U.S. Senate in further debating the issue of Whitewater when there is an independent counsel working on the matter, when the House is moving forward on hearings, where the Senate is prepared to move forward on hearings. But, no, they want to beat this same dead horse over and over again. It is time to bring it to a halt. It reflects upon those leading the debate, and it reflects upon all of those who are on the other side of the aisle supporting the debate.

On each vote taken so far in order to move forward, offered by the majority leader of the Senate, the Members on the other side voted en bloc not to permit us to go forward with our regular business. We are wasting too much time. It does not reflect well on us. It does not reflect well on the Senate. It does not reflect well upon our constitutional processes. I say it is time for a halt. Stand up and be counted on some important legislation instead of wasting further time on the floor of the U.S. Senate trying to make something out of an issue that is a whole lot of nothing.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL. Madam President, I yield 10 minutes to the Senator from South Dakota.

Mr. DASCHLE. Madam President, let me commend the distinguished Senator from Ohio for a very compelling statement.

Madam President, I hope this will be the last day we debate this issue. I hope we can resolve it once and for all and get on with it. As the distinguished Senator from Ohio said, this Senate has an incredibly large agenda that we have to address, and time is wasting. The pages of the calendar are turning, and we do not have the ability or the luxury to continue day after day, week after week, to address a resolution that I think should have been resolved a long time ago. In fact, we have been doing this since last March. The resolution offered then by the majority leader enjoyed the bipartisan, unanimous support of this body.

On March 17, by a vote of 98 to 0, we passed a resolution that made it very clear what the intent of this body ought to be:

> The hearings should be structured and sequenced in such a manner that, in the judgment of the leaders, those hearings would not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr.

That is what the resolution said. We were right then, and we are right today. We must set out in an effort, as the majority leader has indicated, to do what is called for in this resolution.

The resolution that we are voting on today is identical to what the Senate approved last week, as the leader has indicated. Under its provisions, hearings will commence on the first phase of the Whitewater matter in the Banking Committee approximately 30 days after the special counsel indicates that such hearings would not interfere with his investigation or by July 29, whichever is earlier.

In fact, there is a date certain by which this body will act on an investigation. There is a date certain for all Members, for all of America to understand that the investigation will commence and information can begin to be acquired.

The majority leader has repeatedly emphasized in his public and private statements that he and the Senate are firmly committed to meeting the constitutional obligation to conduct the oversight responsibly as required under this resolution and committed to the full and complete hearings that this resolution entails.

We are determined to conduct that oversight in an appropriate way which will avoid interfering with the investigation that is now being conducted by the special counsel.

Democratic and Republican leaders in the House agreed on June 15 to do exactly what this resolution requires, to hold oversight hearings in the House Banking Committee and to accommodate the concerns of the special counsel. This is essentially identical to the leader's proposal.

The leader's resolution authorizes additional hearings to be held into the remaining matters in accordance with the Senate's unanimous vote on March 17.

The Republican resolution, I might emphasize, makes no such commitment to additional hearings. I do not know why they chose not to elaborate on their intentions about additional hearings. But the resolution does not contain any reference to anything beyond this first phase.

The resolution on the Republican side, like the numerous amendments offered last week, seeks to expand the scope of the first phase of the hearings, something that Robert Fiske has said over and over is untenable as he continues to do his work in a very meaningful and productive fashion.

The language is very vague, permitting what we would consider a "fishing expedition" by any person into any activity that is illegal, improper, unauthorized, or unethical related to the Whitewater matters and occurring after January 20, 1994. The inclusion of "improper" and "unauthorized" acts is particularly broad and vague.

What are we talking about when we make reference to improper or unauthorized? Who is going to make that determination, over what timeframe? How does that relate to what Mr. Fiske is attempting to do with his investigation?

The language might well expand the scope of the hearings into matters potentially under investigation in the ongoing inquiry by the special counsel in Little Rock or elsewhere.

The majority leader's resolution provides for the hearings to conclude and for a report to be made to the Senate by the end of this session of Congress. The Republican resolution is open-ended with no requirement for the committee to complete its work by any date whatsoever.

The majority leader's resolution provides funding for additional staff and expenses for the Banking Committee, something that Members of the Republican side have indicated is necessary if we are going to do this work correctly. The Republican resolution provides no limit on the cost of the investigation.

The President has moved forcefully to address questions that have arisen about the so-called Whitewater matter. The Senator from Arkansas earlier addressed that in a very comprehensive manner.

The President has faced questions from the media on several occasions including a major press conference. He has assured the American people. And he has taken necessary steps to assure that there will not be even the appearance of interference in the investigation by anyone in the White House.

The President answered the special counsel's questions under oath for 90 minutes, and Mrs. Clinton answered Mr. Fiske's questions, also under oath, for over an hour. According to press reports the questions were limited to the

first phase of the matters which we contend ought to be done in this inquiry here in the Senate.

The investigation by the special counsel is continuing. It is a serious matter. It is being conducted by a serious man. He is a man of unquestioned ability as a prosecutor. He is a Republican. He was named pursuant to the request led by congressional Republicans for a special counsel.

His appointment was applauded by virtually everyone in this body and for good reason.

Madam President, we need to allow Mr. Fiske to do his job. Many of the same Republicans who called for a special counsel shifted partisan gears as soon as he was named and began to call for immediate congressional hearings. Even in the face of that very counsel's opposition to any such hearings, they continue to demand that the Congress go forward in a way that risks damage to the investigation which has been begun by the special counsel.

This willingness to demand public hearings at any cost is further evidence, in my view, that the purpose is political.

The special counsel, Mr. Fiske, wrote on March 7, 1994, to the chairman and the ranking member of the Senate Banking Committee requesting that the

committee not conduct any hearings in the areas covered by the grand jury's ongoing investigation, both in order to avoid compromising that investigation and in order to further the public interest in preserving fairness, thoroughness, and confidentiality of the grand jury process.

He further stated,

We are doing everything possible to conduct and conclude as expeditiously as possible a complete, thorough and impartial investigation. Inquiry into the underlying events surrounding MGS&L, Whitewater and CMS by a Congressional committee would pose a severe risk to the integrity of our investigation.

We must have the integrity of this investigation protected.

On March 9, in a press conference, Mr. Fiske stated again that his investigation into the communications between White House officials and Treasury Department or Resolution Trust Corporation officials about Whitewater-related matters and his investigation into the Park Service investigation of the death of White House Deputy Counsel Vincent Foster is complete, and he would have no objection to congressional hearings on those matters.

I think he has emphasized over and over that on those matters he does not have any objection to our going forth, and that is really the purpose of the majority leader's resolution—to allow the committee to do its work, to allow the Senate to go on record as we did on March 17 to do the work that is recognized to be the responsibility of this body.

The bipartisan leadership of the House of Representatives confirmed its desire to do that, Madam President, on May 26. They met with Mr. Fiske and, at that meeting, too, Mr. Fiske stated that his intent was clear as could be: that we must recognize the importance of protecting his Whitewater investigation; that congressional hearings ought to be limited to communications between White House officials and Treasury Department officials about Whitewater matters, the Park Service Police investigation into the death of White House Deputy Counsel Vincent Foster, and the White House handling of Vincent Foster's files subsequent to his death.

These are the matters specifically delineated in the resolution before us today.

We have learned, Madam President, time and again from past experience what extensive interference in the ongoing investigations of a special counsel can do. We saw it in the Iran-Contra congressional hearings. We have seen it in other cases throughout history.

Need we learn that lesson all over again? Need we confuse and confound and in some ways undermine the investigation of Mr. Fiske?

Independent counsel Lawrence Walsh addressed that very question earlier this year, pleaded with us to recognize the importance of allowing the special counsel to do his work.

I understand, Madam President, my time has expired.

I just hope that: First, we can pass the resolution proposed by the majority leader; second, that we can get on with this investigation and in a meaningful way; and third, that we can turn to the agenda that is now before the Congress. We cannot afford to continue to paralyze this body with any more of the resolutions that we have had before us in the past couple of weeks.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The majority leader.

Mr. D'AMATO. Madam President, I wonder if the Senator from South Dakota will yield for a question?

Mr. MITCHELL. Madam President, we have been in a situation where in every previous debate the Republican colleagues used far more time than the Democratic colleagues in the debate.

I do not mind if the Senator wants to use the minute and a half to answer the question and we will use our time to respond.

Mr. D'AMATO. I will use 30 seconds, then.

Mr. MITCHELL. Fine.

Mr. D'AMATO. Madam President, I point out that the language that calls for investigation of activities, materials and transactions having a tendency to prove or disprove persons engaged in any illegal or improper or unethical activities comes from essentially two other committees. There is precedent—the Iran-Contra Committee and the Watergate Committee, and others. This was not just dreamed up. That is the kind of language that empowers the committee to go forth.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The majority leader.

Mr. MITCHELL. Madam President, and Members of the Senate, the Senate is now in its 6th legislative day on this so-called Whitewater matter, and the Senate is now debating and will soon vote for the 10th time on essentially the same issue.

In this entire year, only one other bill has taken as many as 7 legislative days. That was the Competitiveness Act, and the only reason that took so long was because Republican Senators filibustered the bill.

So we have now reached the point where the Senate has spent as much or more time on this Whitewater matter as it has on any other matter that has come before the Senate this year. Yet our Republican colleagues suggests in the debate they need more time to debate this. I think that says very clearly to the American people what the priorities and programs of the two parties are.

Our colleagues' highest priority is Whitewater. We want to get on with the business before the country. We want to pass the defense authorization bill this week. We want to deal with health care and crime. We want to deal with all of the legislation that will help improve the lives of Americans.

Our Republican colleagues want to talk about Whitewater.

Ask the American people, is Whitewater the most important issue facing the country? Is Whitewater the issue that requires the Senate to spend more time on it than any other matter that confronts the country? I think the answer, obviously, is no. And that is why the attempt by our Republican colleagues to create a political circus on Whitewater has fallen as flat as a lead balloon. The American people know what is going on. They know this is a purely partisan exercise to attack the President and Mrs. Clinton. It is not working. And it should not work.

What is this issue that is so important that the Senate has to debate on it, not once or twice, not 5 or 6 or 8 or 9 times, but 10 times; 10 times, debating and voting on the same issue, over and over and over again?

It is not whether there will be hearings on the Whitewater matter. The Senate has voted on that, 98 to 0. We are going to adopt a resolution which provides for hearings on the first phase and we have committed ourselves to full hearings on all matters at the appropriate time. So there is no question about whether there will be hearings. There will indeed be hearings, as I have said right from the start.

No, the issue, rather, is whether the first phase of the hearings will go beyond the subjects that are now in the first phase of the special counsel's investigation, contrary to the Senate resolution of March 17, approved 98 to 0, and contrary to the publicly stated wishes and urgings of the special counsel himself. That is the only issue before us.

Our Republican colleagues want to expand the scope of the first phase to go beyond those subjects considered in the first phase of his investigation by the special counsel. Our resolution says our first phase of hearings will cover the subjects covered in the first phase of the special counsel's investigation. And when he completes the remainder of his investigation, the remainder of our hearings will cover all remaining subjects.

By contrast, our Republican colleagues want the first phase of our hearings to cover all of the subjects that are under investigation about Whitewater. They want to be able now to sling more accusations at President and Mrs. Clinton, apparently unable to wait until the special counsel completes his investigation. And, in so doing, they are prepared to risk undermining the special counsel's investigation.

Madam President, reference was made here today by our Republican colleagues about an editorial in the New York Times. There was conspicuous silence about the editorial in the Washington Post of yesterday.

I ask unanimous consent that editorial be printed in the RECORD.

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

[From the Washington Post, June 19, 1994]

CONGRESS AND WHITEWATER

New York Republican Sen. Alfonse M. D'Amato's knack for uniting Democrats must make him the envy of the White House. For the better part of a week, Senate Democrats have joined forces to beat back partisan attempts by Sen. D'Amato and his GOP colleagues to get political mileage out of the Whitewater affair. The wrangling is over the terms of the Banking Committee's pending Whitewater probe. The Republicans complain that the agreement—reached along party lines—to limit public hearings to those phases of the Whitewater probe completed by special counsel Robert Fiske is an abandonment of Congress's constitutional oversight responsibilities. They also charge that the narrowly focused probe is a flagrant attempt by Democrats to go bail for Bill Clinton. Their passion notwithstanding, the Republicans' charges don't hold much water.

The terms of the Banking Committee probe meet the spirit of a March 17 resolution in which the Senate voted 98-0 that "the hearings should be structured and sequenced in such a manner that. . . they would not interfere with the ongoing investigation of special counsel Robert B. Fiske Jr." Mr. Fiske's position that Congress should allow the special prosecutor to proceed without risk of congressional hearings compromising either his work or the grand jury process lay the heart of the resolution, which Senate Republicans supported overwhelmingly. It is that intent that Sen. D'Amato et al. are now trying to annul.

By the end of this month, the initial phases of Mr. Fiske's probe covering the investigation of the death of White House deputy counsel Vincent Foster, the handling of his papers by White House officials and Whitewater-related communications between White House and Treasury officials will be finished. These are the areas to be examined by the Senate Banking Committee. Interestingly, without going through the Senate's machinations, the House agreed to impose similar limits on its own Banking Committee. To denounce the present structure or the sequencing of hearings as a cover-up is wrong.

While the proposed hearing will cover events in the Clinton presidency, the Senate majority leader has given assurance of additional hearings on issues that cover the Clintons' political and business lives before the White House. It is no abdication of Congress's oversight responsibility to be mindful of the pitfalls of simultaneous probes.

Congress ought to avoid hearings that might interfere with prosecutorial efforts to compile admissible evidence leading to convictions. Iran-contra taught that lesson. Why the rush? The Clinton's aren't going anywhere. Senate Democrats should hold firm.

Mr. MITCHELL. Madam President, let me quote briefly from the article. I will paraphrase so as not to mention any individual Senator's name, although names are included in the editorial. The editorial says, "Congress and Whitewater." And it reads, in part: For the better part of a week, Senate Democrats have joined forces to beat back partisan attempts by their GOP colleagues to get political mileage out of the Whitewater affair.

I don't think it could be stated more accurately: Partisan attempts to get political mileage out of the Whitewater affair. In a single sentence, that sums up what has been tying up the Senate for 6 days.

Then it goes on to say the Republican charges do not hold much water. The editorial then recites, as we have here repeatedly, the resolution of March 17, voted by the Senate by a vote of 98 to 0.

The editorial then goes on to say that:

By the end of this month, the initial phases of Mr. Fiske's probe covering the investigation of the death of White House deputy counsel Vincent Foster, the handling of his papers by White House officials and Whitewater-related communications between White House and Treasury officials will be finished. These are the areas to be examined by the Senate Banking Committee. Interestingly, without going through the Senate's machinations, the House agreed to impose similar limits on its own Banking Committee. To denounce the present structure or the sequencing of hearings as a cover-up is wrong.

Madam President, let me go back in time so all Americans can understand clearly what is occurring here. Our Republican colleagues in the Senate earlier this year requested the appointment of a special counsel to investigate the Whitewater matter. A special counsel was appointed.

That special counsel is himself a lifelong Republican, a man of experience and integrity, whose appointment was praised by all of our colleagues, including the junior Senator from New York. That special counsel then requested of the Senate and the House that they not conduct hearings that could interfere with or undermine his investigation. And he specifically requested that any first phase of hearings that were held in the Senate or House not go beyond the first phase of his investigation, so as not to jeopardize the remainder—and really what is the heart—of his investigation.

Our Republican colleagues then reversed fields. Having supported the appointment of the special counsel, having praised the appointment of the special counsel, they now ask the Senate to act in a manner which directly contradicts the request of the special counsel.

It is important that everyone understand, and so I repeat, again: We are going to have a full set of hearings on this matter. The only issue, the only question, is the timing and sequence of those hearings so as not to interfere with the special counsel's investigation. And that is what the Senate voted for. Everyone today, every Senator who votes for the pending resolution offered by the minority leader and the Senator from New York, the Republican resolution, will be voting to contradict his on her vote cast in March, because that resolution directly contradicts the earlier vote which stated that hearings should be sequenced in a manner so as not to interfere with the special counsel's investigation. This is a flip-flop. First a flip-flop on the special counsel, now a flip-flop on the Senate's vote itself, by our Republican colleagues.

The hearings will be held, but they will be held at a time and in a manner that does not interfere with the special counsel's investigation. This is a matter of learning from precedent, not ignoring precedent. We saw what happened in the Iran-Contra case. And let me repeat that here now, briefly, so again people have a full understanding.

There has always been a tension between congressional hearings and ongoing investigations by appropriate prosecutorial agencies, either the Justice Department or, as in this case, a special counsel acting in behalf of the Justice Department.

That tension was covered under the law in a Supreme Court case, known as the Kastigar case, in which the Court set out the procedures by which a person could first testify under immunity at a congressional hearing and then still be subject to prosecution. It was a difficult but a reasonable and attainable test that could be met, so it was

possible under the law to have both testimony by a witness at a congressional hearing under immunity and a subsequent prosecution of that person for acts covered in the testimony.

In the Iran-Contra matter, former Marine LCol. Oliver North testified before the congressional committee under a guaranty of immunity. I personally, as a member of that committee, did not favor the grant of immunity. I felt it was unnecessary, that he would have testified in any event. Notwithstanding my view, the committee voted to grant him immunity. He testified. He was then indicted, prosecuted, and convicted on three felony counts.

He appealed his conviction and the court of appeals returned the case to the district court, effectively reversing the convictions and establishing a new legal standard that did not previously exist with respect to such matters. And that legal standard has been interpreted by the independent counsel in that case, and many other legal scholars, to effectively preclude both congressional hearings and testimony under immunity, or otherwise, and a subsequent prosecution.

That independent counsel stated, and I quote:

> I think the views of some of those in the congressional committees that there was a possibility of concurrent activity, that the Congress could investigate on television and that the criminal prosecution could also go on, was just proved to be wrong, and I think the lesson is very clear as we spelled out in the report. Congress has control. It's a political decision as to which is more important, but it can't have both.

The question now is whether we are to risk undermining the investigation of this special counsel, a special counsel appointed at the request of Republican Senators and whose appointment was applauded by Republican Senators because he himself is a lifelong Republican and a man of integrity.

Madam President, it has been alleged here over and over again that this is a coverup. And yet the House of Representatives has accepted a procedure which is essentially identical to that contained in my resolution. Are our colleagues here really suggesting that the House Republican leadership is engaged in a coverup of this matter to protect President Clinton? Of all the fantastic allegations that have been made here on the Senate floor, I think that is the most fantastic.

Clearly, the Republican leadership in the House is not interested in, nor are they participating in, a coverup of this matter. And yet they have adopted precisely the practice which is in our resolution and which is so vigorously attacked by our Republican colleagues in the Senate.

In this instance at least, it is clear that the House Republicans and the House Democrats share the view of Democrats in the Senate and it is a view which I believe the American people share as well.

Madam President, let me repeat what the issue is here and what it is not. Contrary to the allegations made by our colleagues, there will be a thorough congressional inquiry. It will be detailed. It will cover all of the matters that are involved in the so-called Whitewater affair as set forth in the resolution passed by the Senate on March 17.

The only issue before us is the narrow issue of the timing of those hearings: Whether or not the first phase of the congressional hearings will be limited to those subjects which are covered in the first phase of the special counsel's investigation as the special counsel himself has repeatedly requested, or whether the Senate will go beyond those subjects in the first phase of its investigation to embrace the full matter in a way that would directly contradict the Senate's own vote of 98–0, directly contradict the special counsel's request and pose the direct threat of undermining the special counsel's investigation. That is the only issue.

We have already voted on this nine times, nine times in the previous 5 calendar days before today, and the vote has been the same and I hope it will be the same today.

I think the American people must ask: When are our colleagues going to accept the decision of the Senate, permit the hearings to go forward and to permit the Senate to do the important business before the country?

Finally, let me say it is ironic, in view of all this discussion about additional hearings, that the Republican resolution makes no provision for the additional hearings. Our resolution does. And so, in fact, if someone really wants there to be hearings on all of the subject matters, they should vote for our resolution, because a vote for theirs does not include any provision for additional hearings beyond this additional phase. That is another indication that they want to throw everything into these additional hearings in an effort to attack the President and Mrs. Clinton.

Madam President, I say to the Members of the Senate, the issue is clear, the issue has been voted on nine times with the same result. I hope that this 10th time will be the last time we vote on this. We have already wasted more than we should of the Senate's time dealing with this matter, and it is time now to permit the hearings to go forward. It is time now to turn the attention of the Senate to the other important business which awaits us.

Under law, we must act on 13 appropriations bills. We are going back to one today. We have a number of others. We have to pass the defense authorization bill. We are going to do that. We have a number of important measures. In the near future, we hope to be dealing with health care on the Senate floor.

If our Republican colleagues want to go to the American people and say they think Whitewater is more important than all of those things, that is their business. But for us, we feel this is the way to end it, this is the time to end it, and let us get on with the rest of the business.

Madam President, I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Madam President, on the questions of how important is Whitewater, and does it square up on the relative polls, let me say that if there has been an abuse of power, an abuse which prevented agencies from doing their job, then there is nothing—nothing—more important than the Whitewater hearings.

Abuse of power attacks the very fundamental principles of our democracy: Government for the people, not a tyrannical Government.

As for the House of Representatives and their actions, let me tell you 256 Democrats, 178 Republicans—this was not an agreement. No way. It is more like an offer you can't refuse.

In regard to the composition of the committee and the other aspects of our amendment, the resolution put forth by Senator DOLE and myself requires that the Whitewater hearings be scheduled after consultation and coordination with the independent counsel. These restrictions go further than any previous Senate oversight resolution, in deference to the independent counsel.

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

Mr. D'AMATO. I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. How much time do I have remaining?

The PRESIDING OFFICER. One minute forty-five seconds.

Mr. MITCHELL. Madam President, that is not much time, so I would not attempt to recapitulate the argument in its entirety. But I think every Member of this Senate knows what is going on.

This is, as the Washington Post stated, a partisan effort to gain political advantage. This is an effort by our colleagues to use any mechanism to divert attention away from their own lack of any meaningful program to deal with the problems facing this country and, at the same time, to attack President and Mrs. Clinton.

We have seen it and heard it out here on the Senate floor over the past six calendar days, spread over nearly a 2-week period: Over and over again innuendo about the President and Mrs. Clinton, even though unsubstantiated, even though unproven, but nonetheless

thrown out in an effort to create some impression in the minds of the American people that the President and Mrs. Clinton have done something wrong.

I will just say again, Madam President, we have debated this nine times. We voted nine times. Now we have debated it a 10th time. We are going to vote it a 10th time. I urge my colleagues, cast the same vote that we did previously. Reject this resolution, adopt the underlying resolution and then let us get on to the business facing this country, what the American people want us to do, which is something about jobs, economic growth, health care, crime. Those are the issues. Those are the issues.

Madam President, my time is up. I yield the floor.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the hour of 1 o'clock having arrived, the Senate will stand in recess until 2:15 p.m.

Thereupon, at 1 p.m., the Senate recessed until 2:16 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. KOHL).

AUTHORIZING OVERSIGHT HEARINGS BY THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

The Senate continued with the consideration of the resolution.

Mr. LOTT. Mr. President, a newspaper not known for its agreement with Republicans ran an editorial on June 17, 1994 calling for full and open hearings on the Whitewater affair. Mr. President, I ask unanimous consent that the editorial from the New York Times, entitled "Running for Cover on Whitewater," be entered into the RECORD after my remarks.

(See exhibit 1.)

Mr. LOTT. The Times' editorial does not start with mincing words: The first sentence of the editorial reads, "Senate Democrats are rushing toward a partisan cover-up of the Whitewater affair." This is strong, but true language. It is the language that many Senators have used on this floor over the past few weeks. It is language that tells of a deep frustration over the hesitation of the Senate to take on its full constitutional authority and responsibility.

The Times' editorial goes on to talk about the narrowly circumscribed hearings that our Democrat colleagues have been pushing, hearings that would look at only three questions about actions taken after Mr. Clinton became President. The hearing our colleagues on the other side of the aisle have been pushing, says the New York Times, "excludes far more important questions about what happened in Arkansas before he [Mr. Clinton] and Mrs. Clinton reached the White House."

These far more important questions are the exact ones that the Democrats want to avoid.

Before I go on, I want to stress that the newspaper calling this charade over hearings a "cover-up" could not be called Republican. Many Republicans and conservatives have been criticized by this newspaper's editorials. My Democrat colleagues can't say that this newspaper is biased against their point of view. The New York Times is the premiere liberal newspaper.

With even the Times coming out for full hearings, I think this shows that both Republicans and Democrats, liberals and conservatives want to get these Whitewater issues behind us, so we can go on with solving the Nation's problems.

Some of our Democrat colleagues think otherwise. Some might think that holding back on hearings might serve the President well. Well, a cover-up does not make these issues go away. The President is ill-served by these unanswered questions. The Nation needs to know and wants to know the answers.

The so-called hearings our Democrat colleagues have voted for would focus on only three issues: the U.S. Park Police's handling of the Vince Foster suicide; the way in which the White House handled Mr. Foster's Whitewater files; and whether the White House brought pressure to bear on Treasury officials concerning Madison Guaranty.

These issues are important, and should be looked at by the Senate Banking Committee.

We on this side of the aisle, though, I have been pushing to address other issues, which are within the purview of the Senate. Last week, every time we tried to pass an amendment requiring the Senate to look at these other issues, our Democrat colleagues who would shoot our amendment down. It's an ostrich mentality that has been shown: "No, we don't want the American people to know about that."

What are these other issues? I will quote the New York Times: These issues have to do with "dealings that have raised suspicions that the Clintons may have profited from favors dispensed by people who had something to gain from them." The Clintons' dealings with Madison, the Whitewater land deal, and Mrs. Clinton's magical commodities trading come to mind as issues that the Senate should address. The commodities trading isn't even being looked at by the special counsel—it needs to be looked at by somebody. Why not the Senate?

The answer from those who oppose open hearings doesn't hold water. The opponents of real hearings use fig leaves to cover up a big abdication of Senate responsibility.

One fig leaf is that Senate hearings might disrupt the special counsel's investigation. This is false. There have been many congressional hearings in the past that have gone on while prosecutors have investigated, as the New York Times pointed out. What has changed now?

Mr. Fiske has had a head start in his investigation. We have been patient. We have let Mr. Fiske learn the essentials of the case. Now, it's our turn, and our duty.

It is not the Republicans who are playing raw partisan politics. It is not us who are putting party before duty. Sure, there are politics involved. But the goal is to get to the truth. We don't know if the truth will hurt or help the President. We do know that this cover-up has hurt.

The American people need to know. The faith in the institution of the Presidency needs to be restored. We need hearings not just for the Senate, but for the President, and the people who elected him.

Despite the amendments that have been passed to stop full hearings, we on this side will continue to press for more information. If the Senate doesn't take responsibility for hearings, then we will take the case to the people.

When you get down to it, you can't blame the people for the low opinion it has of this one-party Government. They feel like their voices are not being heard. Sure, another fig leaf thrown around is that the American people don't care about Whitewater. Maybe so—though I disagree. Whitewater is not the World Cup Soccer championships—we wouldn't put on hearings for entertainment. It's our responsibility to have hearings whether people are interested in them or not.

I think the American people, even if they don't know the specifics of Whitewater—though hearings would solve this—feel that something wrong might have happened. This feeling is part of the general unease that has shown up in low opinion polls for this administration.

I look forward to the resolution of the impasse we have reached in this Chamber. I also look forward to the end of this Whitewater mess, if only because of the corrosive uncertainty that day to day hurts Mr. Clinton's Presidency.

Whatever we do, we have to do it quickly. Lollygagging until the end of summer, after the elections, or next year will only prolong the agony of this administration.

EXHIBIT 1

[From the New York Times]

RUNNING FOR COVER ON WHITEWATER

Senate Democrats are rushing toward a partisan cover-up of the Whitewater affair. They have voted to hold narrowly circumscribed hearings in the Senate Banking Committee, which they dominate. They are therefore likely to prolong the agony of the President they hope to protect.

By a 56-to-43 vote, the Senate decided to limit hearings next month to three elements of the case. One is the U.S. Park Police's investigation into the death of Vincent Foster Jr., the Deputy White House Counsel. Two, the way in which members of the White House staff disposed of Mr. Foster's Whitewater files. Three, whether White House officials tried to manipulate Treasury Department investigations into Madison Guaranty Savings and Loan.

This agenda focuses only on White House behavior after Bill Clinton became President and excludes far more important questions about what happened in Arkansas before he and Mrs. Clinton reached the White House.

To recapitulate: Did James McDougal, a Clinton crony who headed Madison, receive favorable treatment from a bank regulator appointed by then-Gov. Bill Clinton? Were Madison funds used to pay off Mr. Clinton's 1984 campaign debt? Were funds in Madison accounts diverted to the Whitewater Development Company? How much did the Clintons pay for their half-share of Whitewater? Did they receive financial benefits that they should have reported as taxable income?

In short, the Democrats have chosen to ignore precisely those dealings that have raised suspicions that the Clintons may have profited from favors dispensed by people who had something to gain from them. They have also shown no interest in Mrs. Clinton's commodities trading, or the possibility that an artful broker may have given her favorable treatment. The special counsel investigating Whitewater, Robert Fiske, has likewise shown little interest in this issue.

The Democrats say their timid agenda results from a desire not to undermine Mr. Fiske's inquiries. They also promise to get to the Arkansas questions next year—safely after the midterm elections. In March, this page argued against a partisan circus and agreed that hearings should be delayed until Mr. Fiske got his feet on the ground. But we also said the delay should be measured in weeks, not months. Mr. Fiske has now had time to learn the basics of the case, both in Washington and Arkansas; it is hard to see how a broad Congressional inquiry could seriously hinder him. It might even help; past Congressional hearings have made the prosecutor's case even stronger.

We also noted that Mr. Fiske could not expect Congress to abdicate its oversight responsibilities. The banking committees have a legitimate interest in the behavior of Federal bank regulators and the Arkansas bank regulators in regard to Madison and its dubious lending practices.

House Democrats are expected to follow the Senate's narrow path. This path does not serve the public or the President. It leaves unanswered questions that voters deserve to have answered. It prolongs the uncertainty that has damaged this Presidency from day one of the Whitewater affair and hands the G.O.P. a new—and legitimate—cover-up issue.

Mr. SIMPSON. Mr. President, I rise in strong opposition to Democrat efforts to limit the appropriate, constitutional role of the Senate in conducting oversight hearings into the Whitewater affair.

The majority leader has characterized Republican efforts to have fair hearings as, "raw partisan politics." But I would argue that those very strong words much better describe the efforts by partisans on the other side of the aisle to unreasonably limit the scope of hearings which we approved 98 to 2 over 3 months ago.

Mr. President, I understand that many Democrats say they "want the truth to be told," but I am beginning to wonder how serious they are. It is one thing to say you are in favor of hearings, and quite another to help establish a fair process to make fair hearings a reality.

The appointment of a special counsel to investigate the Whitewater controversy received bipartisan support. The D'Amato-Dole effort was careful to ensure that there would be proper consultation and coordination with the special counsel. The hearing process we advocated would not inhibit his investigation nor jeopardize his findings in any way. It would, however, permit Congress to properly do its job and to meet its oversight responsibilities.

What I find truly puzzling is that during those "ugly dark days" of the Reagan-Bush years, Congress held 25 hearings on alleged wrongdoing. Never was the scope of those hearings so limited. Most of those hearings were conducted with the full support of both republicans and Democrats. For 6 of those years, indeed, Republicans controlled this Chamber.

Yet the majority leader calls the effort to hold fair hearings on Whitewater "raw partisan politics." I am under no illusion that politics does not often play a part in how things are done in this body. However, conducting fair hearings which are not unreasonably limited on Whitewater, like oversight hearings in other areas, is the nature of our job here. Politics need not have reared its head in this debate.

In 1986 and 1987, both Republicans and Democrats called for a select committee to investigate Iran-Contra. Republicans and Democrats at that time were able to put party differences aside and we agreed that it was in the best interest of the American people to conduct hearings. Finding out the truth was the only thing that mattered. We didn't try to "muzzle" Senators from asking important questions.

Unfortunately, it seems that many Democrats have decided that protecting a President of the same party has a higher priority. These are many of the very same Democrats who supported numerous congressional hearings between 1981 and 1992. We did not limit the scope of those hearings. So please spare us all of the prattle, babble, and patronizing riffle about how Republicans are working with only one motive, that being politics. The sudden change of heart among Democrats is proof enough that the shoe fits the other foot more comfortably.

Mr. President, Republicans have been asking for fair hearings since the snow-filled, icy-cold days of January, and we are now well into the hot and humid days of June. Today, we still do not have even the simplest explanations of the Whitewater matter.

In the 1992 elections, the Clinton campaign stoked voter outrage over the status quo. We all remember the dominating themes of "change" and "reform."

Many people thought if Bill Clinton were elected, our tomorrows would be filled with hope and change and reform. If this blatant exercise in foot-dragging is the "reform" that we are likely to continue to see during the rest of the administration, then the American people will once again experience disillusionment over the ever-widening gap between rhetoric and reality.

For those who say that "Whitewater is a distraction from the real issues," think again. This may be a very real issue. We need to know more about what laws may have been violated by those in the highest levels of power in our country.

We must do our jobs as Republicans and Democrats in Congress with the same fortitude that we did during the Reagan and Bush years. We must never be selective in our judgment and must always strive to find the truth—no matter who may be resident in the White House.

The PRESIDING OFFICER. Under previous order, the question is on agreeing to amendment No. 1818, offered by Senator D'AMATO for Senator DOLE.

Mr. CRAIG. 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.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Connecticut [Mr. DODD] is absence due to illness in the family

I also announce that the Senator from Nevada [Mr. REID] is absent attending a funeral.

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

The result was announced—yeas 44, nays 54, as follows:

[Rollcall Vote No. 153 Leg.]

YEAS—44

Bennett	Faircloth	McCain
Bond	Gorton	McConnell
Brown	Gramm	Murkowski
Burns	Grassley	Nickles
Chafee	Gregg	Packwood
Coats	Hatch	Pressler
Cochran	Hatfield	Roth
Cohen	Helms	Simpson
Coverdell	Hutchison	Smith
Craig	Jeffords	Specter
D'Amato	Kassebaum	Stevens
Danforth	Kempthorne	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	

NAYS—54

Akaka	Bingaman	Bradley
Baucus	Boren	Breaux
Biden	Boxer	Bryan

Bumpers	Hollings	Moseley-Braun
Byrd	Inouye	Moynihan
Campbell	Johnston	Murray
Conrad	Kennedy	Nunn
Daschle	Kerrey	Pell
DeConcini	Kerry	Pryor
Dorgan	Kohl	Riegle
Exon	Lautenberg	Robb
Feingold	Leahy	Rockefeller
Feinstein	Levin	Sarbanes
Ford	Lieberman	Sasser
Glenn	Mathews	Shelby
Graham	Metzenbaum	Simon
Harkin	Mikulski	Wellstone
Heflin	Mitchell	Wofford

NOT VOTING—2

Dodd Reid

So the amendment (No. 1818) was rejected.

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

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

The motion to lay on the table was agreed to.

VOTE ON SENATE RESOLUTION 229

The PRESIDING OFFICER. Under the previous order, the question now occurs on adoption of Senate Resolution 229.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Connecticut [Mr. DODD] is absent due to illness in the family.

I also announce that the Senator from Nevada [Mr. REID] is absent attending a funeral.

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

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 154 Leg.]

YEAS—54

Akaka	Feinstein	Metzenbaum
Baucus	Ford	Mikulski
Biden	Glenn	Mitchell
Bingaman	Graham	Moseley-Braun
Boren	Harkin	Moynihan
Boxer	Heflin	Murray
Bradley	Hollings	Nunn
Breaux	Inouye	Pell
Bryan	Johnston	Pryor
Bumpers	Kennedy	Riegle
Byrd	Kerrey	Robb
Campbell	Kerry	Rockefeller
Conrad	Kohl	Sarbanes
Daschle	Lautenberg	Sasser
DeConcini	Leahy	Shelby
Dorgan	Levin	Simon
Exon	Lieberman	Wellstone
Feingold	Mathews	Wofford

NAYS—44

Bennett	Danforth	Helms
Bond	Dole	Hutchison
Brown	Domenici	Jeffords
Burns	Durenberger	Kassebaum
Chafee	Faircloth	Kempthorne
Coats	Gorton	Lott
Cochran	Gramm	Lugar
Cohen	Grassley	Mack
Coverdell	Gregg	McCain
Craig	Hatch	McConnell
D'Amato	Hatfield	Murkowski
Nickles	Simpson	Thurmond
Packwood	Smith	Wallop
Pressler	Specter	Warner
Roth	Stevens	

NOT VOTING—2

Dodd Reid

So the resolution (S. Res. 229) was agreed to.

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

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

The motion to lay on the table was agreed to.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1995

The PRESIDING OFFICER. Under previous order, the Senate will now resume consideration of H.R. 4539, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 4539) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1995, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

DeConcini amendment No. 1822, relating to non-profit mail rates and advertising exemptions.

The PRESIDING OFFICER. Amendment 1922 is the pending question.

Mr. DECONCINI. Mr. President, I ask unanimous consent we temporarily lay aside the pending amendment.

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

Mr. DECONCINI. Mr. President, I yield for the purpose of morning business to the Senator from Washington, for 10 minutes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington for 10 minutes.

THE FAIRCHILD HOSPITAL SHOOTING

Mrs. MURRAY. Mr. President, I stand before the Senate today with a very sad message.

Last night the State of Washington and the community of Spokane were rocked by the impact of violence. A young, recently discharged serviceman entered Fairchild Air Force Base Hospital and opened fire with an AK-47.

Today there are 4 people dead and 22 wounded.

Many are critically wounded, and two of the injured are children. I am deeply shocked and saddened by this horrible incident, and my heart and prayers go out to the families and friends of the innocent victims.

The gun used in this senseless attack was an AK-47 assault rifle.

AK-47 rifles are legal in this country. It is legal to manufacture replicas, and sell AK-47 assault weapons here in the United States.

An AK-47 rifle was used in the 1989 Stockton, CA, shootings where innocent children were gunned down on a playground.

An AK-47 was used later that same year in shootings at a Louisville, KY, printing plant.

An AK-47 weapon also was used in the January 1993 CIA shootings in Langley, VA.

The fully automatic AK-47 has been the weapon of Communist bloc countries, such as the Russian Army. It was also the weapon faced by United States soldiers in Vietnam.

As many have said before me, the AK-47 and other military-type assault weapons were designed for no other purpose than to kill. They are not hunting rifles, or guns designed for any type of sport. They were designed to kill.

If something can come out of what happened in Spokane last night, my hope is that Congress will come to agreement on the assault weapon ban language in the crime bill—which the House and Senate are now considering in a conference committee. The AK-47 is on the list of weapons that would be banned in the bill.

Mr. President, the gunman in Spokane was only 20 years old. In many States it is legal for him to buy so-called long guns such as the AK-47 even at the age of 18. However, he would not have been able to buy a handgun until he turned 21.

It was also a young man under 21, who shot and killed a young high school student in Seattle, WA, 3 months ago with a different assault weapon. It is also on the list of guns that would be banned by the proposal pending before the conference committee.

It is amazing and appalling to me that a young person under 21 years of age cannot buy a handgun, but—under current law—can purchase an AK-47 and other so-called long guns at the local gun store.

There is no waiting period on long guns in many States. So even if the gunman had purchased the gun recently, he would not have been subject to a background check. The Brady bill—which was recently signed into law—only covers handgun purchases. It, unfortunately, does not cover guns such as the AK-47, which is not a handgun.

It is also amazing to me that Congress has been sitting on assault weapon ban legislation since at least 1989, which is the same year as the Stockton, CA, schoolyard murders. That was over 5 years ago, and still nothing has become law.

It is shocking to me that a young man could actually have access to an AK-47 assault rifle and use it in such a devastating and senseless crime. This

terrible tragedy seems to me to underscore the importance of banning assault weapons in this country.

What happened in Spokane last night is not an isolated incident. We keep hearing stories about someone opening fire with an assault rifle and people being killed. How many more people have to die before we realize how destructive and totally unnecessary these weapons are and ban them from this country?

It is past time to pass a ban on assault weapons. If it saves even one innocent life, then—in my mind—it is well worth the law. And finally, it is time for us to ask the question, "Why has our Nation endured such a record of violence?" Until we answer that question openly and honestly as a society, we will continue to be shocked and saddened by tragedies such as what occurred in my home State last night.

I yield the floor.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1995

The Senate continued with the consideration of the bill.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the present amendment be laid aside and I yield to the Senator from Nebraska for 5 minutes.

Mr. KERREY. If the chairman will yield, I actually would like to speak on the bill.

Mr. DECONCINI. I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska [Mr. KERREY].

Mr. KERREY. Mr. President, first of all, I would like to praise the leadership of Senator DECONCINI, the Senator from Arizona, the chairman of the subcommittee, and I would like, indeed, to speak briefly about a program that Senator DECONCINI was instrumental in starting. It is one of these small programs that very often gets missed.

I would like to call it to my colleagues' attention because, indeed, it works. There are many things in this bill that are worthy, and I suspect we will have the opportunity to debate them. Indeed, I suspect we will have the opportunity to hear additional amendments being offered to attempt to improve it.

I would like to talk about a very small, a relatively low-cost but a very cost-effective program called the Gang Resistance Education and Training Program, or the GREAT Program. GREAT is a program that falls under the heading of prevention. This is an effort to prevent crime rather than to react to it, to respond to it when we see it on the streets. It is a true partnership. The money goes to law enforcement agencies and the law enforcement agencies then form partnerships with a local school.

For the purpose of perhaps describing this beyond need, it is important for me to say this effort, this kind of partnership is possible because the money goes to the law enforcement agency. The law enforcement agency then approaches the school looking for a partner. As a consequence of that kind of approach, we end up with almost no administrative costs, very little of the traditional overhead that we see when we pump money top down either through law enforcement or through our educational institutions.

In committee, we added $5 million to the administration's request for funding for GREAT. The administration eliminated funding, cut some funds that would not just benefit Nebraska but benefit other communities that are beginning to learn about the benefits of this program. The committee restored those funds, and I would like to discuss why.

In Omaha, NE, war is breaking out on the streets this summer. Recent shootings, including the murder of an Omaha gang leader last weekend, have been linked to an emerging war between rival gangs. As in other wars, in this one, young people who have barely glimpsed the lives that lie before them, are being cut down in cold blood by other young people armed to the teeth with weaponry designed to kill.

If our people were under attack on the streets of Mogadishu or Seoul or Sarajevo, we would not hesitate to reinforce them and to win the effort. Indeed, when Moslem terrorists attacked and killed innocent Americans in the World Trade Center, our response was immediate and forceful. Nothing could stop us.

The gang war that is warring on the streets of Omaha and other cities this summer in the United States is no different, and if it is different, it is because this war is worse. Today, instead of fighting and dying thousands of miles away from home, our children are dying in our own streets. Today the battles are for our neighborhoods and our children.

Today, Mr. President, we are fighting the battle at home. The typical problem is that far too many of our children are making very bad choices and very bad decisions and suffering severe consequences as a result.

The generals in this battle are people like Officer Dan Hagen of the police department in Papillion that was awarded a $5,000 grant to form a partnership with the Papillion High School system. Mr. President, 300 young people went through a 6-week GREAT Program; 300 young people at a cost of $15,000 is why I call it not only low cost but cost effective.

Dan Hagen has made an immeasurable contribution toward keeping kids off the streets and away from crime through the GREAT Program. Today Officer Hagen and thousands of other law enforcement officials across Nebraska and in the Nation, as well, need reinforcements. This bill provides some of them. It provides reinforcements in the form of continued funding for the GREAT Program, including several successful efforts in my own home State. We restored the $5 million in funding in committee because we believed deeply that the GREAT Program saves the lives of children. But it saves more than lives, Mr. President.

The modest amount we spend keeping kids away from crime today can spare us the expense of punishing them later and spare our economy the needless loss of young lives that could be adding to our economy instead of detracting from it.

While I respect very much the fact that the administration must abide by tough budget caps imposed by this body at the urging of myself and others, we ought not cut that spending which saves us money in the long run. We should go further in the coming months. We should make a serious commitment of natural resources and a full-scale buildup in the war on crime. Specifically in this case, I urge and hope my colleagues will support the $40 million authorization that would take to fund 50 new GREAT initiatives nationwide.

I support that funding because the GREAT Program works. Whether you are a conservative or whether you are a liberal, whether you are a Republican or Democrat, I guarantee you that if you saw the results of this effort, young people who now see the dangerous consequences of making bad choices and the very low cost of administering and operating this program that you would say that taxpayers are getting their money's worth.

We do not need to pretend when we talk about crime that small programs like this are a cure-all. Each of us knows that crime is a much more complex problem than that. But today in Nebraska, we are compelled to wonder whether the Omaha youth who are today engaged in slaughter might instead be engaged in study in high school, college, or trade schools had the GREAT Program been there for them. We are compelled to wonder whether they might be contributing to the economy and the work force and to families in the home. Tragedy, Mr. President, compels us to ask that question. Foresight today may keep us from having to ask it again.

Mr. President, I said it in the subcommittee hearings, but the distinguished Senator from Arizona, the chairman of this committee, has left a legacy in many, many areas, a legacy that will be remembered, a legacy that will be appreciated. This is not only an important legacy, but it is a legacy that will be measured in lives and a

legacy that will be measured in the long-term contribution to the American society.

I yield the floor.

The PRESIDING OFFICER (Mr. LIEBERMAN). Who seeks recognition?

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa [Mr. GRASSLEY].

Mr. GRASSLEY. Mr. President, I rise for the purpose of offering an amendment, but I would like to say to the distinguished manager, the Senator from Arizona, that my amendment is going through just a little bit of a rewrite. I would like to take advantage of the opportunity to make my opening statement on my amendment, and then I hope to have it ready at the end of that period of time for debate and consideration by this body.

Mr. President, this is a bipartisan amendment. My colleagues who are joining me in this are Senators LOTT, WALLOP, SHELBY, BURNS, FAIRCLOTH, and HUTCHISON.

The amendment that I will be offering shortly will do two very simple things: It puts the rights of the American taxpayer before the IRS request which is in this bill for 5,000 more agents. Second, this amendment says that the Senate will not tolerate increases in the budget caps. I call this increase in the budget caps "cap creep," just gradually losing control over what little budget discipline we have by creeping in numbers.

This amendment strikes and saves the taxpayers $405 million, and this is funding that will be struck from the IRS portion of this bill that is before this body. That amount of money that will be saved is the amount of money that would be used for the 5,000 agents. That is 2,000 that would normally go by attrition and then 3,000 additional new agents above and beyond what they have now that they want to hire.

I wish to remind my colleagues that the Senate did discuss this during the fiscal year 1995 budget resolution, and we included this in the budget resolution but with a very, very important condition. That would be that this money would be allowed only on the condition that the taxpayer bill of rights II would become law. In sum, the Senate said at that time in the debate on the budget resolution, if the IRS were to get more agents, the American taxpayers had to have more constitutional protection.

As one of my key cosponsors of the amendment stated, this funding for new agents would be available "if, and only if," the taxpayer bill of rights II would become law.

Unfortunately, that is not what happened. The requirement that the taxpayer bill of rights II become law as well as some other conditions that were in that compromise, these were all dropped in conference on the budget resolution. But do you know what? The additional money above the caps to hire the 5,000 more agents was not dropped. So a Senator that went into that issue—and several of us were involved in those discussions; very little of it played out here in the Chamber of the Senate, but a compromise was reached. For those Senators who thought, well, it might be all right to have the additional agents if the taxpayer protections to which they were entitled were not left out in the cold, the taxpayer protections never survived the conference as did the 5,000 agents with the $405 million above the caps, the budget discipline in the 1990 budget law, and so here we are at appropriations time to make real for fiscal year 1995 these 5,000 agents.

The Senate now has the opportunity to remove this stain on its effort to protect the taxpayers. By striking this funding, the Senate will reaffirm that the taxpayer does come first and that the Senate did not abandon the taxpayers' interests.

I know that many of my colleagues on both sides of the aisle were supporters of the passage of the original taxpayer bill of rights, and I believe that that was in 1988, as I recall. And you are now cosponsors of an additional bill providing additional protection for the taxpayers. That bill was introduced by Senator PRYOR, the main sponsor, and myself as prime cosponsor. We have always had a great deal of bipartisanship on this effort to get protection for the taxpayers.

So you were cosponsors of that original taxpayer bill of rights. You are interested in the bill that we now have before the Senate to expand those rights. As I said, this legislation, the bill of rights, is largely due—and maybe I ought to say wholly due—to the tremendous work of my colleague from Arkansas, Senator PRYOR, who is chairman of the Finance subcommittee responsible for the oversight of the IRS. I serve with Senator PRYOR on that subcommittee, and I am the ranking member of that subcommittee.

There is no question that achieving passage during the previous administrations of the taxpayer bill of rights was extremely difficult. Unfortunately, we have learned from followup hearings that the IRS has often been slow in implementing this legislation. Just as important, we learned that there are many further reforms necessary to protect the taxpayers. And that is what is in the Pryor-Grassley taxpayer bill of rights II. And not all of the needed rights that should be legislated are in that bill but most of them are contained in this bill presently before the Senate, taxpayer bill of rights II.

Placing the taxpayers first is an issue to which we should all agree. This was not a partisan issue when the first bill of rights was passed, and I believe it is not a partisan issue now. The only way that we are going to ensure that passage of the taxpayer bill of rights II becomes a priority for this administration and for this Congress is if we send a very clear signal that protecting the taxpayer is our top priority, that is, by legislating further rights for the taxpayer. And, of course, this is why, we have a National Taxpayers Union letter in support of this amendment. But it is not so much that they are concerned about the $405 million or concerned about the 5,000 agents, saving that money, as important as it is, but the National Taxpayers Union was one of the prime supporters of the taxpayer bill of rights I, and they are also very strongly supportive of Senator PRYOR's second effort, taxpayer bill of rights II, which is before the Senate.

My colleagues are familiar with the legion of horror stories that we hear in our home States about the tender mercies of the IRS. I do not think any of us want to go home and tell our constituents that we voted for $405 million to hire 5,000 more IRS agents while at the same time we received no consideration of the protections we were trying to get for the taxpayers in their dealings with the IRS.

That is point one, that if we are going to fund these agents, as we very carefully worked out a compromise in the Senate on the budget resolution, then those agents cannot be hired until the taxpayer bill of rights II becomes law. More agents on the one hand, more protections for the taxpayers then at the same time.

Now, I would like to then turn to the second issue that this amendment addresses; that is, helping to put a stop to cap creep.

Now, think of the efforts that we have in this budget law that is before us. We legislate caps on how much money can be spent. We legislate these caps.

The Appropriations Committee, when it appropriates money, has to have all the money in every appropriations bill add up. They cannot add up to more than is in that cap in the budget resolution.

This amendment is only going to strike that funding for the IRS that goes above and beyond the cap; above and beyond what every other agency of Government has to live within, a predetermined cap. It is unacceptable that the Senate would take a position that a small percentage of the funding for the IRS should increase budget caps. In doing so, we would completely undermine the discipline of these caps especially in light of the Exon-Grassley cuts of $13 billion. The Senate adopted $26 billion cuts under Exon-Grassley, and then it was compromised because the House rubberstamped the President's budget. We agreed then in conference to $13 billion of cuts.

Here again, let me acknowledge that this precedent certainly did not start

with this administration because we have had previous administrations also engaged in this poorly thought out policy of "cap creep." To argue that this funding should be allowed to increase the caps because it would raise more money than it spends is the thin wedge of a disastrous policy that undermines every effort that we make to control spending.

So, when you do this for the IRS, where does this policy end? Why is not agency A, agency B, agency X, Y, and Z entitled to the same consideration, or why in the case of the IRS, if this is good justification, is not the entire IRS off budget? Then when you start doing that, why not take Customs Service off budget? Or, why not take the National Park Service employees off budget because they take your $5 at Yellowstone, and other national parks you enter?

There is hardly an agency that does not take in some revenue in the form of fees or taxes for us that could not claim, if they could just keep that and not run it through the appropriations process, that they could very effectively spend that to bring in more revenue?

My colleagues will hear much hankering from opponents of this amendment. They will tell you how important it is to have these additional agents.

So let me just say, Mr. President, that if you buy that line, then you are falling for the line that always comes before us when we try to cut anything—the "old Washington Monument ploy." You will remember that is when you cut $1 from some budget, the first thing that is going to happen in this town is that the Washington Monument is going to be closed down. Well, you know, we have heard that argument time and time again. But it just never happens. That Washington Monument is standing there tall and straight since it was started in the 1840's and completed in the 1880's, and people are entering it and enjoying it. It is not closed down.

This action by the IRS is premeditated conniving at its bureaucratic best. You see, the IRS budget is obviously so bare bones that they absolutely had to bust the caps by funding these agents. I would like to describe this bare-bones budget. It contains about $50 million in staff bonuses. It buys over 600 new cars, brand-new cars. It spends 2 and four/tenths billions—yes, that is billion dollars—for travel, office space, and new furniture. All of this, the travel, the office space, the new furniture, is obviously sacrosanct.

Yes, Mr. President, this ploy has the aroma of something that happens too often in this town. Bureaucrats in the corridors conniving, and the target of this connivance in this instance is the poor, ordinary taxpayer out there. The connivance is the arbitrary decision to allow the funding of agents to cause a cap creep. If the staff bonuses, or the new cars, or the new furniture had been the cause, then no one would stand for it. There is no way that the managers of this bill could justify going over the cap to buy more furniture, or to have more travel, or to have more cars. But we can take more money above the cap, and hire more agents, and it is fully justified. But let us not worry about the furniture. Let us not worry about the travel. Let us not worry about the new cars because, if you had to use that as the justification for more money for the IRS, it would never sell here. But perhaps it can be sold by hiring 5,000 more agents.

I bet if you go home to your taxpayers in your respective States, and you ask people if they want to spend more money on the IRS, or for more agents, or for more furniture, it would be for more furniture. As a matter of fact, they would feel it could not be justified under any circumstances. But when we go through this ploy that we are going through in this bill, the taxpayers are still getting the shaft. Only it is a little less obvious. The aroma of this bureaucratic conniving is still there.

I cannot wait to see who among my colleagues will vote for all this, and then try to explain it to their constituents. I say to my colleagues, if you care about spending restraint, if you support Exon-Grassley cuts, if you care about the deficit and the debt, you will support this bipartisan amendment. Otherwise, we will see more and more such gimmicks that negate all of our efforts to control all spending. In other words, if we break the dam in this instance, this will not be the only water over the dam for the IRS. There will be a lot of other departments that are going to justify additional expenditures.

I think instead that this amendment is an amendment that will clear up the smoke and help crack the mirrors. This should be an easy vote for anybody who considers themselves a deficit hawk.

I want to close again by making an appeal to my colleagues to support this amendment for the sake of the taxpayers. Because, again, I want to emphasize, just in case somebody just started to pay attention to what this amendment does, we provided in the budget resolution for these additional agents. But they could not be hired. And the money could not be spent until the taxpayer bill of rights passed.

In other words, more agents—it was legitimate to give the taxpayers more protection. It went to conference after it went through this body fully supported. The conference took out the taxpayers' rights provision. No, no protection, no additional protection whatsoever for the taxpayers. But the additional 5,000 agents, costing $405 million, yes, that is OK. Move on.

So I think the bottom line is that we have to put the protection of the taxpayers first before the desires of the IRS to hire 5,000 more agents.

Mr. President, I will soon yield the floor.

AMENDMENT NO. 1823

(Purpose: To limit funding on the Internal Revenue tax compliance initiative in fiscal year 1995, and for other purposes)

Mr. GRASSLEY. 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 Iowa [Mr. GRASSLEY], for himself, Mr. SHELBY, Mr. LOTT, Mr. WALLOP, Mr. BURNS, and Mr. FAIRCLOTH, proposes an amendment numbered 1823.

Mr. GRASSLEY. 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 15, line 17, strike out "$4,358,180,000" and insert in lieu thereof "$3,953,180,000."

On page 15, line 19, beginning with "*Provided*" strike out all through the semicolon on line 21 and insert in lieu therof the following: "*Provided*, That no funds appropriated under this heading may be used for the enhanced tax compliance initiative for fiscal year 1995 as proposed by the Internal Revenue Service".

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

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama [Mr. SHELBY] is recognized.

Mr. SHELBY. Mr. President, I rise in support of the Grassley amendment. I am glad that I had the opportunity to cosponsor it with the Senator from Iowa.

Mr. President, earlier this year, the Senate agreed to spend approximately $2.2 billion over 5 years to help the IRS increase tax compliance in this country. At that time, Mr. President, it was agreed that this new spending would be considered what we call off budget, because according to the IRS's own estimates, the new spending would be offset by increased revenues generated from improved compliance. As part of the compromise that ensured the passage of this amendment in the Senate budget resolution, it was agreed that before one dime would be spent on putting more IRS agents on the beat, a taxpayers' bill of rights would be enacted into law to ensure that taxpayers' rights were respected under the new initiative.

Mr. President, it was the will of the Senate that a taxpayers' bill of rights be a prerequisite to this new off-budget spending grant. The language in the appropriations bill before us today ignores that will, Mr. President. The quid pro quo of taxpayer protections

that form the basis for Senate approval was stripped out by budget conferees, leaving only the grant of $405 million in new spending for fiscal year 1995.

Mr. President, I believe this is a back-ended way of once again putting it to the American taxpayer without any assurance that taxpayers will be protected from undertrained or overzealous tax collectors.

While I oppose spending $405 million next year, much less $2.2 billion over the next 5 years to beef up IRS compliance, without these necessary protections in them, I continue to question the need and also the effectiveness of new off-budget spending for more tax collectors at all.

Mr. President, we are told that this spending will pay for 5,000 new IRS enforcement agents—5,000. According to the IRS, an infusion of $405 million a year and an increase in enforcement staff by 5,000 would allow the IRS to improve compliance and collect more revenues, more taxes.

Mr. President, the IRS cannot even figure out how much it receives or spends every year. In a 1994 GAO report, they stated that they were unable to audit 64 percent of the IRS's operating funds because the IRS could not account for all of the funds themselves. The IRS cannot even account for $4.3 billion they already have, and we now want to give them another $405 million for 1995? Do we, Mr. President?

Whatever happened to the Vice President's plan to reinvent Government, or the recently passed Federal Work Force Restructuring Act? I remember just last November receiving the Treasury's plan for reinventing the IRS. I was under the impression that they were going to do more with less—not more or less with more.

According to their reinvention plan, the IRS was going to reduce the size and number of its regional offices from 7 to 5, consolidate its 44 geographic customer service centers to 23, and cut staff. In fact, the IRS was scheduled to see a reduction in the staff of 2,000 people as part of the governmentwide initiative to reduce the Federal work force that was so talked about.

Now Congress is going to go back and basically eliminate that staff cut and add 3,000 more full-time Federal employees to the Government rolls. This is not reinventing Government, Mr. President; this is reinventing new ways to increase the size and the cost of the Federal Government.

Mr. President, even more integral to the IRS's reinvention was supposed to be the use of technology, like electronic filing and telephone collections. What happened there?

In a plan for reinventing the IRS, an entire page is dedicated to describing how existing workers—not new workers—who are displaced by these new technologies will be retrained and relocated.

Why then, with the knowledge that existing workers will already be displaced, are we spending more money to hire more of them? Why not just retrain existing workers for enforcement positions?

Mr. President, by their own admission, the IRS has a surplus of employees, not a deficit. I thought that reinventing Government was about being more efficient with existing resources, not asking for 5,000 new, full-time Federal employees.

Mr. President, it is my understanding that the GAO does not support spending more on new revenue agents. In fact, they would recommend, I believe, just the opposite.

According to their April 1994 report:

> We do not support an initiative that calls for more revenue agents. We believe the focus of IRS's collection efforts should be just the opposite—more use of the telephone and less reliance on face-to-face contacts.

More recently, in a letter dated June 20, 1994, a few days ago, responding to several questions directed by Senator GRASSLEY, the following statement was made with regard to the necessity of new revenue agents:

> We do not know the specific amounts of revenue involved, but there are steps IRS could take to generate additional revenues by using existing staff differently and more efficiently.

And in commenting on past funding for such compliance initiatives, GAO noted the following:

> In 1990, for example, IRS received funding for nine compliance initiatives but implemented only two. In 1991, Congress appropriated $191 million for initiatives and IRS used $134 million for that purpose. In 1993 and 1994, Congress authorized initiatives of $43 million and $115 million respectively. However, IRS was unable to fully implement the initiatives in either year. IRS now plans to spend only about $17 million on the fiscal year 1994 initiatives. We do not know what IRS eventually spent on the fiscal year 1993 initiatives.

Mr. President, I quote again from GAO:

> We do not know what IRS eventually spent on the fiscal year 1993 initiatives, and yet we are going to give them another $405 million for fiscal year 1995.

Mr. President, spending $405 million in 1995 is not the fiscally responsible thing to do.

Finally, I would like also to note to my colleagues that the President, to my understanding, did not include the request for this funding into the fiscal 1995 budget. So not only does GAO think it is a bad idea, I do not think the President, unless he has changed his mind, thought that an increase was necessary either when he submitted his budget for 1995.

Not only is this unnecessary spending, it is inefficient spending. Hiring 5,000 new Federal employees to collect taxes is not the answer to improving compliance and, Mr. President, it is not the answer to reinventing Government.

I urge my colleagues to join me in supporting Senator GRASSLEY in this effort.

The PRESIDING OFFICER. The Chair recognizes the Senator from Mississippi [Mr. LOTT].

Mr. LOTT. Mr. President, I rise in support of the Grassley-Shelby amendment.

Mr. President, I think it is important that as we consider this amendment to this appropriations bill we examine the history of how we got to this point.

The President's budget proposed hiring 5,000 new IRS agents to increase compliance. And the administration proposed paying for it with off-budget spending. This proposal was included on the floor when the Senate passed the budget resolution. But, it was on the condition that the taxpayer bill of rights II become law by 1996.

The budget conference took the liberty of striking this essential protection for the taxpayer. Thus, the conference report allowed for off-budget spending of $405 million per year for new agents with no offset to pay for this spending and no taxpayer bill of rights II.

The Treasury-Postal appropriations bill before us now includes this off-budget funding for the new IRS agents.

Most Senators and Members of Congress can cite to you not one, not two, but many instances of abuse by IRS agents. Quite often it appears to me that this abuse comes from the fact that they do not have enough to do. It is not just a question of collecting what is owed. It is how you do it. That is why I think the taxpayer bill of rights II is such an integral part of this issue. If we are going to have 5,000 more IRS agents crawling all over the American taxpayers, the least we can do for balance and equity is provide some fundamental rights and protection for the taxpayers.

Let me just cite examples of what is in this taxpayer bill of rights II package.

It would provide for an ombudsman to help people when they feel like they are not being treated fairly, when a particular agent perhaps goes too far.

It provides for an interest-free extension period for payment of taxes after notice and demand. Part of the biggest problem with people who have difficulty with the IRS is not so much what they owe, but what they wind up owing. Interest and penalties continue to just stack up and make it almost impossible for the taxpayer to ever get to the principal. This would extend the interest-free period for payment of that tax after notification. It would even have an expansion of authority to abate that interest.

It provides for changes after you have filed a single return. You could actually change the filing to a joint return without penalty.

It deals with collection activities, offers of compromise, notification of examination, removal of limits on recovery for civil damages, and a myriad of other very important, reasonable, basic commonsense provisions. The taxpayer would be protected and the Internal Revenue Service may even see an increase in compliance.

So I am very pleased that Senator GRASSLEY and Senator SHELBY have offered this amendment. A number of other Senators are cosponsors of this proposal to strike the provision in this appropriations bill to hire 5,000 new IRS agents. This amendment will reduce the deficit by $2 billion over a 5-year period.

Why should the IRS be allowed to do this? There are other Federal agencies which perform an invaluable service and they do not receive off-budget funding. I think the IRS should not get any special treatment. In fact, I want to give you some arguments as to why the IRS does not need all these additional agents.

According to CBO, the IRS has seen the greatest increase in staff in the Federal Government over the past 12 years except for the Department of Defense. In fiscal year 1982, IRS had 82,857 employees. As of January 1, 1994, the Internal Revenue Service has 113,770 employees.

As you can see, there has been about a 30,000-person increase in the number of Federal employees at IRS alone.

At a time when the Federal Government is shrinking by 252,000 workers. Why do we need this 5,000-agent increase on top of the 30,000 that have been added in the previous 10 years?

I think that better compliance is an appropriate goal, but if that is the problem, I believe they should refocus their agents and the funding they already have. Instead of going after Methodist ministers about whether they are self-employed or not, they should go after real offenders.

I also fear one of the results of 5,000 additional agents is that they will target small businesses and small corporations who already are struggling just to make ends meet.

Allowing this money to be spent off budget is a big misstep down a very steep and slippery slope of budget gimmickry and exorbitant deficits. It will totally undermine the credibility of budget caps which are set in law.

This is an excellent amendment, one that I would urge my colleagues to support. It is fiscally sound. It also honors a commitment from the budget resolution. We do not need to be increasing the size of Federal agencies at this time—especially IRS agents.

I have not noticed a shortage of agents in Mississippi. Is there a State which is clamoring for more IRS agents? I want to remind my colleagues that this increase was tied to the passage of the taxpayer bill of rights II. There are a lot of punitive actions performed by agents which need to be done away with. The taxpayer bill of rights II provides an excellent compromise. It works with the taxpayers, to get the taxes they owe in a less aggressive and adversarial manner. I do not think we would need more IRS agents. We need fewer IRS agents.

My colleagues are going to give you an argument about good Government and paying unto Caesar, Caesar's due. This is not the problem. In fact, this amendment will be a way that we can help reduce the deficit by $2 billion over 5 years.

What would a referendum with taxpayers reveal? Let them vote. I bet they would overwhelmingly support the Grassley-Shelby amendment. And again I urge my colleagues to do the same and support this fiscally responsible amendment. Increasing the Federal work force is going in absolutely the wrong direction at the wrong time. Taking it off budget and adding the cost to the deficit is bad budget policy, and unsound fiscal policy—it is unbelievable.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona, [Mr. DECONCINI].

Mr. DECONCINI. Mr. President, the Senator from Mississippi is correct. There has been a substantial increase in IRS agents over the past 12 years, and they have been under the compliance initiatives offered by the Bush administration and the Reagan administration.

So this growth did not occur here in the last 18 months from this administration.

What we have done here, and it is very important that people understand, the budget resolution that we passed in this body, and, by the way, I have sympathy for not putting these funds off budget, it troubles me immensely but that is what this body did. The budget resolution provided for an additional $405 million in budget authority and outlays, outside the discretionary caps.

If I had my druthers I would not do that. But that is not what the body did, and that is not the law that we are governed by when we are subject to the budget process. We are the appropriators, and we come up with the money. The money has been authorized by the Budget Committee and that was to have a compliance initiative in order to raise additional revenues between $9 billion and $10 billion.

I hope it works. I think there is a good chance that it will. These funds were then what they call "crosswalked" to the committee. The additional IRS compliance funds were provided in the appropriations process. That is why we are here. That is why that money is in this appropriations bill. The committee bill actually includes an additional $426 million for IRS law enforcement with this purpose and this purpose alone.

In addition, the bill includes language stating that the funds cannot be used for any other purpose, and that no funds shall be transferred from the tax law enforcement account in fiscal year 1995 for other purposes.

Why was that done? That was done to ensure, to satisfy people here, that this was not some way to get around the caps for anything other than a compliance initiative. I will talk about the need for that in just a moment.

The funds will be used to support 5,000 new agents. But that is not how many new agents are actually going to be hired here, and they are not all agents. Many of them are collectors, and there is a difference. It is a fine distinction. If you are from the IRS, I understand, and you knock on the door and say, "I am here to help you;" when you tell them you are from the IRS, it does not make any difference if you are a collector or an agent. The point is, these are not the same employees as an agent is, because they do collection and not auditing, which is what the agents do.

Out of this, there are going to be only 2,000 new employees. The Senator from Iowa may say that is too many.

Mr. GRASSLEY. It should be 3,000 new employees.

Mr. DECONCINI. No, 2,000 new employees. The rest are going to be taken from the IRS rolls that were going to be eliminated through the attrition process. They will not be eliminated but they are not all new people.

Why are we doing this? Let us get down to the facts. The Senator from Iowa says and the Senator from Mississippi says, "Gee whiz, the poor taxpayer." I am interested in seeing that the taxpayer is not harassed. I am sick and tired of it. I get those complaints as well as anybody else. And I am sure the Senator from Iowa knows the accounts receivable inventories, taxes due the Federal Government—the Government you and I are here representing, as well as the people here, that we are trying to make run more effectively—that tax receivables have grown 35 percent just in the last 5 years—in the last 5 years; 1 year under this administration and 4 years under the past administration. I am not blaming anybody; it is just a fact. We are not collecting money. People who should be paying their taxes do not pay them.

The accounts receivable are estimated at over $75 billion. What do we do about it? We have some options. We could say just collect it and take the money out of, I do not know, taxpayer services; take it from telephones or knock down the computer so you cannot count or answer questions of taxpayers, or do something. We did not.

What we said: The administration came up with an initiative very similar

to the initiatives the Bush administration has come up with and the Reagan administration has come up with, to go out and get those American taxpayers who are not paying.

If you want to defend the American taxpayer who does not want to pay their tax bill, be my guest. But I am sick and tired of it. I pay my taxes. You pay your taxes. Most of the people we represent pay their taxes. Why should we not go after those who do not?

So the budget is approved by this body, and in it there is a compliance, to go get those taxpayers. The tax gap, in addition to the $75 billion estimated—it is estimated to be maybe $127 billion.

The number of taxpayers failing to pay their liabilities, failing to pay their taxes—probably there are some in Iowa. I am sure there are some in Arizona and Mississippi. I have to represent them. But I am not going to represent them to not pay their taxes, because there are over 14 million who do not pay their taxes and nobody asks them any questions or goes after them.

I think we should go after them. I wish I was not here, frankly—because my friends know how I feel, and I have supported the Grassley-Exon amendments on a number of occasions—I wish I was not here arguing for something outside the cap. Because I do not like to see that stuff off-budget, this or anything else. But that is not what I have to do. I have an obligation here to get an appropriation to do a taxpayers compliance and it happens to be already passed by the Budget Act to be off-budget or over the caps, outside the caps. So now we have to do it. It does not affect the deficit. It will permit the IRS to help close that taxpayer gap. It seems to me the Senators who are proposing this amendment ought to be for it.

In addition, it is going to raise between $9 billion and $10 billion. Let us say they are off, and it raises $7 or $8 billion. That is still a good investment for $2 billion over a 5-year period.

The chairman of the Budget Committee, Senator SASSER, in a statement just yesterday, said a number of things, and one of them was:

> The Internal Revenue Service and the Treasury Department have certified that they are firmly committed to the principles of privacy, confidentiality, courtesy, and protection of taxpayer rights. To this end the Internal Revenue Service and the Treasury Department have specifically committed to initiate and implement educational programs for any new employees hired as a result of the compliance initiative.

That is what we told them to do. We did not tell them that they had to pass the taxpayer bill of rights. We did not say it was conditioned that they pass it. We told them that they had to institute and initiate the proper procedures, and now we are told that they have done it. To me, what else can you ask? Had the condition been that you must enact into law the Pryor taxpayer bill of rights, that would have been something else. And I am a cosponsor of that bill, and I support it very much. But what the budget resolution said is that you have to certify that you are instituting these new initiatives. And I think that is what has been done.

Senator SASSER goes on to say that the Internal Revenue Service compliance initiatives will not increase the total of the Federal budget deficit over 5 years. I did not just make that up. That comes from the GAO. They said, "We believe that the additional budget authorities will not increase the deficit over the 5-year period in question." That is a quote from the text, from the Policy and Administration Office of the GAO. That letter goes on to state, with reference to the IRS estimates of revenue:

> The IRS has changed its methodology for estimating the additional revenues to be generated by augmenting its examination function. Thus, we are more confident than in the past about the reliability of the revenue estimates associated with the examination part of the compliance initiative.

I have had problems in the past. I have been working on this committee ever since I have been in the Senate, and I have been chairman of it for 9 years now, and I have had a lot of problems with this particular issue of promising to raise all this money and not being able to get there. So we have asked them over the years, go back and look at how much you have raised under these initiatives. They have put in a new mechanism of trying to determine this. They can only estimate, nobody can guarantee it, but they have lowered that. I believe they have come as close as they can.

In addition, with reference to the use of revenue officers that the IRS plans to hire to implement its collection program, the committee has included language in the committee report which states: "The Committee has denied the request of $87,908,000 for the hiring of 1,192 additional revenue officers, and instead instructed the Service to redeploy these funds into the hiring of additional call site collectors," which is different from an IRS agent as to how much you have to pay them. The committee took this action as a direct result of the GAO recommendations.

I have to agree. I wish I was not here asking, arguing for $405 million outside the discretionary caps. That is what we did. And to not now go through with the compliance because this body adopted a budget that took the money outside the caps is really foolish. We have letters, which I will put in the RECORD and read them only if we want to extend this debate—and I appreciate the Senator from Iowa being willing to enter into a time agreement so we can get on with things. We have letters here from Lloyd Bentsen, the Secretary of the Treasury, and the Commissioner of the Internal Revenue Service, Mrs. Richardson, that all state that they are in compliance with the requirements that were in the Budget Act, that they have initiated the proper education systems and programs to guarantee to the taxpayer, as best as they can, that they will abide by the rules as set out in the taxpayer bill of rights.

As I said, I wish we had passed that taxpayer bill of rights.

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

Mr. DECONCINI. I will be glad to yield for a question.

The PRESIDING OFFICER. The Senator from Arizona yields.

Mr. GRASSLEY. I said for a question.

If you would permit me just to say something along the lines of what you just said. Their letters may say—and I do not dispute the sincerity of Secretary Bentsen, Commissioner Richardson, et cetera, on what they will try to do from an educational standpoint on taxpayers' rights, what they will try to do from the standpoint of issuing regulations on the taxpayer bill of rights, what they can do without our passing law.

But they cannot substitute a pledge that they are going to do this to take the place of the agreement that was reached in the Senate on our budget resolution when we said that it was conditioned on the passage of taxpayer bill of rights 2, not their maybe doing something through regulation or their doing something through education that would take the place of the passage of taxpayer bill of rights 2. They can do all these things good and dandy, but the bottom line of it is, that cannot satisfy the agreement that was reached on the floor of the Senate on the budget resolution.

Mr. DECONCINI. If the Senator will yield, first of all in the bill, section 2, under the administrative provisions, it states, and I will read it to the Senator, on page 17:

> The Internal Revenue Service shall institute and maintain a training program to ensure that Internal Revenue Service employees are trained in taxpayers' rights in dealing courteously with the taxpayers and in cross-cultural relations.

So that is part of this law that is before us right here, that says they shall do it. That is in the bill.

We did not adopt the budget resolution that said this is conditioned upon passage of the taxpayer bill of rights 1 or 2. That is not what the budget resolution said, as I will point out. The budget resolution noted the Internal Revenue Service and the Treasury Department, according to Senator SASSER, have certified that they are committed to the principles of privacy, confidentiality, courtesy, protection of taxpayers' rights. And to this end the

Internal Revenue Service and the Treasury Department have explicitly committed to initiate and implement educational programs for any new employees hired as a result of the compliance initiative.

Then at the end of the statement he says some other things about the Commissioner.

But as I point out, we have it here that they have to. We did not say that they may institute and maintain training programs. Exactly what the Senator wants. If the Senator is here because the taxpayer bill of rights has not been passed, I am sympathetic. I wish it was passed. I do not want to muck up this bill, but if he offered it here, I would vote for it because I support it and we ought to pass it. It is the right thing to do.

But now we are stuck. We passed a budget and now you are saying take out the compliance because you have not complied with all the taxpayer bill of rights. It does not say we have to comply. It says they have to certify that they will institute these and to ensure that they will institute, we have told them right here, they shall institute it. So they will be breaking the law if they do not do this in section 2.

I do not know what else we can ask of the agency. I just do not know what else we can ask.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from Missouri [Mr. BOND].

Mr. BOND. Mr. President, I, too, am a supporter of the taxpayer bill of rights, and I have been a cosponsor. I want to see it passed. I think it makes a good deal of sense. But as we talk about the budget resolution and the provisions in it, I think it is perhaps appropriate to point out that there were a couple of provisions in the Senate version of the budget resolution.

One of those provisions has already been addressed, and that is, we wanted the Secretary of the Treasury to certify to the chairman that the Internal Revenue Service will initiate and implement an educational program with respect to taxpayer bill of rights 1 and 2 for any new employees hired pursuant to such budget authority or outlays and as the chairman, Senator DECONCINI, has already pointed out, we have letters expressing binding commitments from both Secretary Bentsen and Commissioner Richardson. As the chairman has further pointed out, we have put binding language about that educational effort into this measure.

With respect to actual passage of the taxpayer bill of rights, the Senate budget resolution had contingencies and under it said, No. 1:

In the case of such budget authority or outlays through any fiscal year after fiscal year 1995—

After fiscal year 1995

there has been enacted into law a taxpayer bill of rights 2.

That applies to future years. It does not apply to 1995.

My good friend from Iowa, I believe, is a member of the Finance Committee. I believe that that measure is within the jurisdiction of the Finance Committee. I certainly wish him well in passing it out of the Finance Committee, and I will support on the floor the taxpayer bill of rights. But the problem is that we are seeing significant amounts of revenue not collected.

This country's tax structure is based on voluntary compliance. We expect that most people voluntarily will pay their taxes. We have to back that up, though, because current estimates are that we have only 83 percent voluntary compliance and that figure is going down. Each percentage point of compliance is worth between $7 and $10 billion to the Treasury. If you took the lower estimate of $7 billion, pushing the tax compliance rate to 95 percent would generate $84 billion a year.

Mr. President, I do not like taxes. I do not know too many people who do like taxes, but I would rather collect the taxes that are owed than have to come and fight against tax increase proposals increasing the rates. I think every taxpayer in this country who is paying taxes would agree that the IRS should make every effort to collect the taxes that are owed. It certainly makes more sense than raising taxes on those who are already complying.

The Senator from Arizona has already talked about the 83 percent who voluntarily comply, and I assume and I hope it means everybody in this Chamber. And 83 percent of our constituents nationwide are the ones I am concerned about. They are the ones who are bearing the burden because 17 percent are not paying their taxes. That is a tax gap of $100 to $200 billion. We could reduce the taxes on those who already pay if we could get substantial compliance with the tax laws that are now on the books.

A point has been raised about the possibility of raising revenue in other areas. Frankly, I would support some initiatives in Customs because I think they are missing out on revenue that could be raised. But the fact of the matter is that the Internal Revenue Service collects 90 percent of the revenues of the Federal Government. If they are not doing a good job of pursuing nonpayers, those who do not comply, then there is less of an incentive for voluntary compliance, and we may see that 83 percent compliance figure erode further.

If you really are concerned about the 83 percent of the taxpayers, you will support the provision in the bill. To support this amendment, however well-intentioned, is to say to the 17 percent who skate without paying the taxes: "Good luck; we're going to give you another pass; we're not going to step up the compliance efforts to make it more likely that we will track you down and bring actions to force you to pay." To me, this benefits the 17 percent who do not pay at the expense of the 83 percent who do pay.

GAO has been raised here and the GAO letter of June 16, again as Chairman DECONCINI has pointed out, clearly states that this additional budget authority will not increase the budget deficit over the 5-year period.

My colleague from Iowa said we need to stick with the caps. Why do we need to stick with the caps? I believe in caps when they are designed to keep the deficit down.

I personally faulted the Director of OMB for not putting this proposal in the original budget proposal. I think this should have been part of the proposal. It should have been in the caps. But the fact that it was not does not mean there is any less good to be achieved by collecting money from the people who are not paying their taxes now. Somewhere between $100 billion to $200 billion of taxes are not being paid. For this revenue-raising measure, adding compliance officers, we will get about $9 billion over 5 years.

That is a better than $4 return for every $1 we spend. This initiative should and will reduce the deficit. And it will do so not at the expense of the 83 percent who do their taxes but at the expense of the 17 percent who are not paying their taxes now.

While I respect and admire the conservative fiscal responsibility of my colleagues from Iowa and Alabama, on this one I am afraid they are just plain wrong. This will enable us to lower the deficit, to gain more than $4 in revenue for every $1 spent on this compliance initiative.

I hope that my colleagues will support what the Budget Committee did and what the subcommittee in the Appropriations Committee has done, and that is to provide a compliance initiative so that we will say to the taxpayers, the vast majority who did pay, we are going to protect you by going after the deadbeats who do not pay their taxes. I hope the Senate will reject this amendment.

The PRESIDING OFFICER. Who seeks recognition?

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. First of all, I ask unanimous consent that Senator ROTH be added as a cosponsor.

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

Mr. GRASSLEY. We have heard from the distinguished managers of this bill what they consider good-faith attempts by Treasury and the IRS to educate agents and to issue regulations that will be a substitute for the condition that we had in the budget when it

passed the Senate, that these agents could not be hired unless we passed taxpayer bill of rights 2. I believe that our colleagues probably in their own good mind accept the good faith of those efforts. They have letters that say the same thing.

But I would like to have my colleagues understand that I have written Secretary Bentsen to get the details of these education and training programs and what regulations might be issued, and I have not received any response yet, anything definitive on what they are going to do. And so as well intended as the provisions of this legislation might be to see that this is done, I think that we cannot count on it.

I think that also the references to the conference report probably had that same good intention, but I have not trusted these approaches in the past. I have dealt with it under both Republican administrations and now under this administration to do what they say they are going to do in protecting taxpayers' rights. That is why I was very adamant in the compromise that was worked out when the budget first passed the Senate that this would be conditioned on the passage of legislation, not just on some nebulous sort of promises of education of employees and doing some things through regulation.

This is meant to be a nonpartisan issue. I think it is perfectly legitimate for the Senator from Arizona to suggest what happened under previous administrations. I just think that the problem we are dealing with here is that the IRS is the same IRS, whether you have Republican Presidents or you have Democrat Presidents. So this amendment is not in any way a criticism of this Democratic administration or President Clinton. This is a situation that I would say is institutional, a problem that is institutional with which we have to deal.

Now, I would like to ask Senator DECONCINI to consider what he said yesterday on this issue in his opening statement on the legislation.

He had, as he put it, reservations about this initiative as it was stated in the bill. He further stated, and I would like to quote, "These kinds of funds ought to be dedicated to the modernization of the system and making it really functional and available."

This compliance initiative in this legislation that my amendment would strike, which is striking $405 million and then striking the authorization for 5,000 agents, is a misallocation of the taxpayers' money and it goes against the principles of reinventing Government.

This IRS staff increase provision, I think, has been mislabeled, as it is a tax law enforcement measure. I think it has to be and can be more accurately referred to as the "heavy-hand-of-the-law measure that will increase Government bureaucracy and harassment at taxpayers' expense."

Now, of course, we want and we need the IRS to collect revenues, and nobody including this Senator can justify any amount of money lawfully owed the Government going unreported and uncollected. But there are other ways to get that job done than the effort to just hire more people and appropriate more money for it and even break the budget caps to do this. That is bad for the IRS, but it is going to be bad as it sets a precedent for other departments to ask for the same consideration, because the GAO and others are legitimately making arguments that the IRS needs to reprioritize and achieve more efficiencies within its current means. Until these are accomplished in a maximum way, we should not even be considering more staff increases, especially if the President is serious about his so-called reinventing Government proposal.

I thought reinventing Government meant doing more with less staff and less bureaucracy. I thought that because that has been expressed by Vice President GORE very clearly, and I feel very clearly supported by President Clinton in this effort. Since the day after Labor Day last year, this administration has been fully into reinventing Government, and I have been supportive of that effort. I say in some respects I do not think there is going to be the proper followthrough, but at least for what they say they are trying to do I say it is the right direction and we should help them do what they want to do, only more.

That applies to the IRS as well. I think the IRS has a long way to go before these priorities and these efficiencies are achieved. Just one of the misallocations in the resources can be seen in the area of in-kind payments for farmers.

Currently, the IRS is going after hundreds of family farmers who pay their workers with grain or other commodities. Under the law, very clearly these payments are exempt from the FICA taxes, but the IRS, which is trying to overturn the law, has been going after these farmers for millions of dollars in back taxes, penalties, and interest. Many, if not most, of these family farmers are following the law as written, but the IRS has found a group of powerless taxpayers of modest means to go after. Many of the farmers my office has dealt with do not have the money to fight these misguided attacks.

Why is the IRS going after these low-income family farms when there are thousands of international tax cheats out there? That is my concern. What is the top priority of the agency? When the IRS is misusing resources now, how can we expect such an uncontrollable bureaucracy to do better with more funding? In other words, why, if they are not careful now with the allocation of those funds should they have $405 million more to hire 5,000 more agents?

Then there is another group that the IRS has been going after. This has been referred to already by my distinguished colleague from Mississippi. They have been going after Methodist ministers. Can you believe that? An attorney for the United Methodist Church testified before the House Ways and Means Committee about the IRS targeting and harassing a group of Methodist preachers. What have we come to, Mr. President? It is no wonder the public is angry.

Of course, there are hundreds of other individual horror stories as documented through congressional hearings and news reports that we do not have time to go into. But my point, Mr. President, is that the IRS has to first get its priorities straight and needs to implement new and effective taxpayer protections before we unleash thousands of more agents on a skeptical, if not angry, public.

A vote for the Grassley-Shelby amendment, an amendment with bipartisan support, is a vote to protect taxpayers and force better efficiency, and it is a vote against budget gimmickry.

I hope that my colleagues will put the taxpayers first in supporting this amendment.

No one knows the true overall costs of this IRS staff increase or the amount of offsetting revenue that will be raised. This is a main point of at least one of the managers of this bill; that we are going to bring in all of this money as a result of putting on 5,000 more agents. There is no objective evidence that past staff increases have actually raised more than they cost, especially when you factor in retirement costs. Even if the IRS studies do not prove that these staff increases made money or even the IRS studies cannot prove that staff increases made money for the Government, the profit that has been made in the past was due more to realized efficiencies and reprioritizing than to staff increases. Even the IRS admits that.

The General Accounting Office has also found that "Past IRS staff increases," to quote a report, "were not implemented as Congress intended, and the IRS' revenue estimates were unreliable." And the GAO says that the staff increases will probably increase the deficit in the first year and will not increase the deficit in later years only if certain conditions are met. These certain conditions are, first, whether or not funds are used as intended to increase IRS enforcement staffing; second, funds are provided in the fiscal years after 1995 to maintain the increased staffing level; and, three, whether the IRS is able to successfully hire, to train, and to retain this additional staff.

So we are going to have to spend even more taxpayer dollars in the outyears to realize any projected savings, meaning that the total cost of this new staffing is unknown but may be way beyond the initial $2 billion 5-year cost. In addition, the CBO refuses to score the staff increases as a revenue raiser.

CBO does speculate that more money would be raised than the staff would cost. But they were unable to factor in what will undoubtedly be very expensive retirement costs.

So that is speculation, and it is a far cry from accomplishing any kind of deficit reduction. If my amendment succeeds, we know that we will be saving over that 5 years $2 billion. If these staff increases pass, we are going to be lucky to break even, let alone make money.

So true deficit reduction is only certain if our amendment passes. The committee provision is at best wishful thinking.

I notice that my colleague from Illinois is on the floor and wants to speak. I will yield momentarily. But based on some discussions that he and I privately had, I would like to take advantage of repeating something that I said earlier in this debate because he was not on the floor at that time.

There has been some allusion to it by the managers of the bill—that that quote was actually from the conference report, or from this legislation, as opposed to what was agreed to by the Senator from Illinois and myself and several others on the budget resolution when it was up in April. That is what we should do if we are going to hire more agents: Make sure that we get adequate protection for the taxpayers.

So some of us agreed that this money could be spent only after the taxpayer bill of rights 2 passed. So we went ahead in the budget resolution. The money is there as it passed the Senate. But then it goes to conference between the House and Senate. The condition that this money not be spent until the taxpayer bill of rights 2 passes was taken out. There was some nebulous language put in that the IRS would do their best to educate their personnel to do some things by regulation that would be substituted for the taxpayer bill of rights.

Those are good measures. But effectively the Treasury Department in agreeing to what the Senate agreed to get it through the Senate with full knowledge that they would run from that agreement when it passed, when it was coming out of conference.

So we ended up with these nebulous promises of regulations and education. And I would hope that my colleague from Illinois would agree that we should not now appropriate that money until that original agreement was followed because that would have never gotten through this body in the first instance without that condition in it.

I yield the floor.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, I will yield in a moment to the Senator from Illinois.

I want to comment on one remark the Senator from Iowa said. He quoted me in a statement that I made yesterday about what I think the IRS priorities are. I stand by that statement. I think if I were the Commissioner, I would do it differently. If I were the Senate and the Congress, I would do it differently. But I am not the Commissioner and I do not act as this body. What I do with the ranking Member here is that we take what the Budget Committee gives us.

Now we are appropriating it, and we are doing everything that the Senator has asked us to do, and everything that I believe was an agreement—I will hear about that in a moment—as to what was supposed to be done by the IRS. We are telling them that they shall institute all of these procedures that were discussed in the budget, inside the budget agreement and outside the budget agreement.

So we are truly abiding by what I think was the intent of those budgeteers when they went to the budget and afterwards. That is why we have this provision in the bill.

I thank the Senator from Illinois.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I thank Senator DECONCINI for his work here.

Let me add that Senator DECONCINI's service to this country will be missed in the U.S. Senate, for what he is doing on this bill is just one of the many illustrations of it.

The situation is pretty much as my colleague from Iowa described it. I introduced the amendment. We had an agreement that we would put on Senator PRYOR's taxpayer bill of rights 2, and in the process of all of this, things got changed.

My understanding is that Treasury says they are going to implement this. I would prefer it in legislative language. If Senator PRYOR offers it in legislative language, I am going to vote for it. But I also believe we ought to get people to comply with the law. And if we can spend this amount of money, and according to GAO get a net return of $9.2 billion, we ought to do it.

Second, I think we ought to say—because we talk about the abuses of the IRS, and there have been abuses. I think every Member of the Senate has had some constituents who come in and have genuine complaints about IRS abuses. I was audited maybe 30 years ago and had to go in with 2 or 3 years—I forget now—of my returns. And, real candidly, I found when they saw you were playing it honest, they were helpful, and I ended up, one year, paying maybe $186 and another year getting back $230; it was kind of a wash. I do not remember whether I ended up getting more or paying more money. But I have to say they were very courteous as they moved through the process. I think that is the general experience that people have.

There is $125 billion that is not collected each year, but people owe it. But I think we owe it to the people who do pay taxes to see that the taxes are collected.

This is not a new thing. In 1990—and the Senator from Colorado can correct me if I am wrong—my recollection is that it was not a Democratic administration in charge. The 1990 budget agreement included an IRS tax compliance initiative which provided additional funding for activities that would reasonably be expected to increase revenue collections. The administration is considering a similar multiyear IRS initiative beginning in 1995 to increase taxpayer compliance further.

We are doing identically what we did in 1990. The IRS audits only 1 percent of tax returns. So we are not talking about just a massive deluge descending on the taxpayers of this country.

The report by the committee, shared by Senator DECONCINI, has this substitute language on the taxpayer bill of rights, and here we should give credit to our colleague Senator PRYOR, who really has done superb work in this.

It says:

> The Internal Revenue Service and the Treasury Department have certified that they are firmly committed to the principles of privacy, confidentiality, courtesy, and protection of taxpayer rights. To this end, the Internal Revenue Service and the Treasury Department have explicitly committed to initiate and implement education programs for any new employees hired as a result of the compliance initiative made possible by this section.

Under the old taxpayer bill of rights, 9,000 managers of the IRS got 20 hours of training so they would be sensitive to taxpayers, and all other employees got 6 to 8 hours of training. My guess is that most of the complaints we are hearing today are not as frequent as the complaints that we had in years past. I cannot vouch for that. Someone may come up with a study on this. But it seems to me that if we ask good, solid, honest citizens to pay their taxes, we ought to go after the people who do not pay their taxes, who cheat. And this is what the committee is asking is: Let us collect some of this $125 billion that we are not collecting right now. So I am going to oppose the amendment offered by my friend from Iowa. I have great respect for him for his independence and his tenacity. But I think we owe it to the American people to collect this money.

I yield the floor.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana [Mr. BURNS], is recognized.

Mr. BURNS. Mr. President, I rise in strong support of the Grassley amendment, and I guess after being around here for a while and looking at how the bureaucracy works at the Federal level, it is not a hard judgment call to make.

There is nothing in this legislation or the increase in funds for this bureaucracy to go out and collect taxes. I agree with my friend from Illinois that, yes, it should be done, but there is no incentive for them to do so. They have demonstrated that over the last 2, 3, 4 years, since I have been in the U.S. Senate.

We can talk about 1990. For example, the IRS received funding for nine compliance initiatives, but they only implemented two. They would probably come back and say, "We only had people enough to implement two." But the money was there. There is a lack of initiative or incentive to go out and get it done. Whenever you talk about trying to save money—and it becomes a mindset or a spending set in Government—I am familiar with that because before I came here, I worked at local government where the rubber really hits the road, and as far as making government work, you are not only the man that makes out the budget, but you are also the appropriator. And so you sort of wise up to those types of things.

In 1991, Congress appropriated $191 million for initiatives, and the IRS used $134 million for that purpose. We say, "Look at the money we saved." But do you know what? Their collections did not go up. The activity did not go up. They bought automobiles, and they gave a few raises. They said, "Well, we improved the morale of the IRS." Well, I will tell you what; we can improve the morale of the whole country, spending money like that. But only two initiatives were put in place.

The IRS was unable to fully implement the initiatives in either year. So whenever we take a look at that, we see that we do not give them an incentive to go ahead and do the job as they are supposed to do it. I imagine that you could create a Gestapo if you said, "OK, go out and collect that $9.2 billion, and we will pay you a commission," if you want to make the investment in new auditors, or CPA's, or new ways to collect taxes across the country.

I think that would be very hard to do, and I do not think that is the kind of Government we really want. I think what we want is an agency that will honestly do their jobs, present their budget honestly, and do an honest day's work, and provide services not only for the taxpayers but also those people who we would like to think like to pay their taxes.

So I support this initiative for the simple reason that I think it sends a strong message to the rest of this Federal Government, that, yes, you are going to have to do more with less, because the American people have told us that that is the way they want it done.

For that reason, I will support this amendment. I thank my friend from Iowa for offering this amendment.

I thank the Chair, and I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri [Mr. BOND], is recognized.

Mr. BOND. Mr. President, there are some things in the statement of my good friend from Montana with which I agree. In the past, we have provided initiatives to the IRS, and they have not carried them out because we put in requirements on the IRS, unfunded mandates, like pay increases, that we did not provide the funding for.

That is one of the reasons they have not been able to carry out the compliance requests.

We give them all these new jobs to do with great ideas, and then we say, "By the way, you have to eat this pay increase, and you have to take on these additional responsibilities."

When this came out of the Budget Committee, it was fenced, and it said, "You have to use this for compliance."

My colleagues have raised the questions about what are you going to do with these moneys? Accounts receivable have grown 35 percent. That is people have not paid their bills. The number of taxpayers failing to pay their liability in full has increased from 14 million to 16 million. They are going to put staff to get quicker assignment and accelerated taxpayer contact to get the moneys collected.

Underreporting is a major problem. They are going to initiate a matching report program that will assure that all the documents they get in are matched to see if the payments reported by the payors are included as revenue by the payees.

As to nonfilers, there are more than 10 million returns that should be filed that are not filed each year. Again, they will use the information they get to identify those who receive dividends and who are not on the tax rolls.

Tax fraud: For some in the 17 percent who do not pay, they are guilty of criminal tax frauds, and these are the people that really should bother us.

I assume, as I said, that all of us here in the 83 percent who do pay the taxes that are owed, when some people are resorting to willful criminal fraud to evade their responsibility to pay taxes, that is a major blow at all of us who pay our taxes as they are owed.

There are bankruptcy fraud, motor fuel tax evasion, financial fraud involving pensions, and filing fraud.

These are criminal activities. These are criminal activities that can be pursued with the resources that are set in this compliance initiative.

Will this generate $9.2 billion over 5 years? Well, I cannot say for sure. I intend to monitor it to see that it does. I believe it is a reasonable way to approach it.

The Senator from Montana served in local government, and he knows that you have to have the resources to collect the taxes that are owed.

I served as Governor of Missouri, and I found that when you had a carefully crafted program to increase compliance, you could collect not only a lot more money from those who are trying to evade the taxes but you had a very healthy impact on those who were debating about whether to file and pay voluntarily the taxes they owed.

I have seen these initiatives can work. I believe that we have the commitment from the IRS and the Treasury that they will make them work. We have the commitment from the IRS and Treasury that they will provide education for the IRS personnel to comply with the taxpayer bill of rights as required in the initial budget resolution in the Senate.

As I said, the budget resolution in the Senate expressed the hope that the taxpayer bill of rights II would be passed for the years after fiscal year 1995. I look forward to seeing my friend from Iowa bring that measure to the floor from the Finance Committee. I will certainly support it.

I believe that it is false economy to fail to provide the $400 million that over 5 years will bring in $9 billion.

I urge my colleagues not to support this amendment.

The PRESIDING OFFICER. The Senator from Iowa [Mr. GRASSLEY] is recognized.

AMENDMENT NO. 1823, AS MODIFIED

Mr. GRASSLEY. Mr. President, I have a modification of my amendment I send to the desk.

The PRESIDING OFFICER. The Senator has the right to modify the amendment.

The amendment (No. 1823), as modified, is as follows:

On page 15, line 17, strike out "$4,358,180,000" and insert in lieu thereof "$3,953,180,000".

On page 15, line 19, beginning with "*Provided*" strike out all through the semicolon on line 21 and insert in lieu thereof the following: "*Provided* That no funds appropriated under this heading may be used for the enhanced tax compliance initiative for fiscal year 1995 as proposed by the Internal Revenue Service".

On page 15, line 24, strike out "$442,148,000" and insert in lieu thereof "$391,448,000" and strike out "5,002" and insert in lieu thereof "4,495".

Mr. GRASSLEY. So I may proceed?

The PRESIDING OFFICER. The Senator may proceed.

Mr. GRASSLEY. I also ask unanimous consent to add Senator SMITH as a cosponsor.

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

Mr. GRASSLEY. Mr. President, there is just one last point to both managers of the bill that I would like to make before we vote, and I understand that they desire to have closing statements, and that is OK with me.

First of all, Senator SIMON is not here, but this is only to raise a question to him. It is not to condemn anything he is saying.

The General Accounting Office—and he referred to the General Accounting Office—has never said that this would raise $9 billion, and I would be interested in seeing that figure from the GAO if the Senator from Illinois has it.

The estimates that we have been dealing with here are estimates from the IRS itself, and as a practical matter when we are making judgments about revenue that will come in from some action we take, we do not rely on the General Accounting Office for budget estimates.

I want to quote from the GAO analysis of the IRS fiscal year budget in regard to this specific figure.

Funding provided for the compliance initiatives in the Senate budget resolution is significantly lower than the funding level upon which IRS based its staffing and revenue estimates. The budget resolution would provide funding of $2.025 billion over 5 years.

That is what we have in the budget resolution, and that is what they are appropriating here.

The IRS' estimates of 8,136 additional full-time employes (FTEs) and $9.2 billion of additional revenue were based on funding of $2.5 billion over that period. With the decreased funding—

That would be a decreased funding of about a half billion dollars.

—IRS will have to revise its estimates.

That is revise its estimates of that $9 billion that we are told that they will get.

That is GAO's analysis of this proposition we are dealing with here.

So I think you want to remember that according to GAO, IRS is not getting the money that they say they need or the number of employees they say they need to get what they want.

So somehow the managers of this bill are going to have to revise down that $9 billion that they are quoting here.

I yield the floor, and I think I have nothing further to say on this amendment.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DeCONCINI. 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 bill clerk proceeded to call the roll.

Mr. BOND. 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. BOND. Mr. President, we are expecting another Senator to come over and speak on this amendment. The manager on the other side and I hope that we can move to a vote as quickly as we can after that.

In order to perhaps avoid having to have another amendment tomorrow, I would just call attention to the fact that on June 8 I wrote to Mr. McClarty at the White House asking him a question about the unauthorized use of Government-funded transportation by two members of the White House staff.

I have asked that he review any other incidents regarding use of taxpayer-financed transportation by White House staff, and I have asked the findings of the review. I have asked if they are conducting an overall review of helicopters and other modes of transportation. I have asked for copies of the travel log entries of Presidential helicopters for each trip with a 200-mile radius of the White House since January 20, 1993, including information on all nonmilitary personnel who rode in the helicopter, et cetera.

Now, I suppose I could always offer a specific amendment related to that commanding that the White House provide it. I would hope that maybe it has just been an oversight by Mr. McClarty that they have not been able to respond to my request of June 8. But in order perhaps to save this body some time, I would again call to the attention of the executive branch representatives that I wrote the letter on June 8 and I would be most grateful for a response before we finish this bill so hopefully we could avoid having to put a specific amendment on the floor relating to those matters.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, for the RECORD, I ask unanimous consent to have printed at this time a letter from Mrs. Richardson, the Commissioner of the Internal Revenue Service, dated April 22, 1994; a letter from Secretary Bentsen, dated June 21, 1994; and one from Secretary Bentsen dated April 22, 1994, all indicating the intentions and the initiatives already being taken by the Treasury Department, Internal Revenue Service, to comply with the budget resolution.

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

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, DC, April 22, 1994.

Hon. DAVID H. PRYOR,
Chairman, Subcommittee on Private Retirement Plans and Oversight of IRS, Committee on Finance, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I would like to follow up on our conversation yesterday about the language currently contained in Simon-Bond-Pryor IRS compliance initiative amendment to the Senate Budget proposal.

The Internal Revenue Service fully recognizes the need to protect the rights and privacy of taxpayers and the need to continue to increase the knowledge of our employees about those rights. We will initiate and implement educational programs with respect to the Taxpayer Bill of Rights for any new employees that we hire as a result of the compliance initiative called for in the amendment.

In fact, many of our training programs already address the Taxpayer Bill of Rights, either directly or indirectly. For example, this year all IRS employees attended Ethics Workshops that teach the tenets of respect for others, treatment with courtesy and decency, and principles of fairness and concern for others. I have enclosed a copy of that material for you. More directly, all new collection and examination employees receive mandatory training on the Taxpayer Bill of Rights and I will forward copies of those materials to you under separate cover.

I firmly believe that continued reinforcement of the principles of privacy and confidentiality, courtesy, and protection of rights is the right thing to do to ensure the ethical treatment of taxpayers and one of the foundations of voluntary compliance. I also believe this compliance initiative makes good business sense for increasing revenue, enhancing compliance and reducing the deficit. I appreciate your support and efforts on behalf of this initiative and the taxpaying public.

Sincerely,

MARGARET MILNER RICHARDSON.

DEPARTMENT OF THE TREASURY,
Washington, DC, June 21, 1994.

Hon. DENNIS DECONCINI,
Chairman, Subcommittee on Treasury, Postal Service and General Government, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing regarding the Compliance Initiative in the FY 1995 Treasury-Postal Appropriations that would provide an additional 5,000 employees for IRS. I am particularly concerned about statements in a June 20th letter from Senator Grassley and others about that Initiative that was circulated to you and your colleagues. I want to set the record straight.

PROTECTION OF TAXPAYER RIGHTS

I want to assure you that the Internal Revenue Service fully recognizes the need to protect the rights and privacy of taxpayers and the need to continue to increase the knowledge of its employees about those rights. I wrote to Senator David Pryor on April 22, 1994 and told him that IRS would ensure the protection of taxpayer rights and privacy. I have also spoken to Commissioner Richardson about continuing to reinforce the principles and provisions of the Taxpayer Bill of Rights and know she is committed to a strong training program as stated in her letter of April 22nd to Senator Pryor.

GAO SUPPORT FOR THE COMPLIANCE INITIATIVE

Senator Grassley's letter alleges that GAO questions the validity of adding new IRS compliance employees. Quite to the contrary, GAO has stated in a June 16, 1994 letter to Chairman Sasser "that an increase in enforcement staffing will help generate significant revenues over the long term."

THE INITIATIVE WILL GENERATE OVER $9 BILLION IN REVENUE

The IRS Compliance Initiative was presented in the Budget within the framework of broader deficit reduction, rather than focusing entirely on spending. It is anticipated

that the Compliance Initiative will conservatively yield in excess of $9 billion over 5 years—all of which will be applied to deficit reduction.

I appreciate your support and efforts on behalf of the Compliance Initiative and effective tax administration.

Sincerely,

LLOYD BENTSEN.

DEPARTMENT OF THE TREASURY,
Washington, DC, April 22, 1994.

Hon. DAVID H. PRYOR,
Chairman, Subcommittee on Private Retirement Plans and Oversight of IRS, Committee on Finance, U.S. Senate, Washington, DC.

DEAR DAVID: I have spoken with Commissioner Richardson about continuing to reinforce the principles and provisions of the Taxpayer Bill of Rights through training new IRS employees. I want to add my support to the IRS' efforts to protect the rights and privacy of taxpayers.

The Internal Revenue Service is committed to initiating and implementing educational programs with respect to the Taxpayer Bill of Rights for any new employee hired as a result of the Simon-Bond-Pryor IRS compliance initiative amendment to the Senate budget proposal. I fully support the training programs that the IRS already has in place and will initiate for all new employees to enhance the ethical treatment of taxpayers and to protect their rights.

Sincerely,

LLOYD BENTSEN.

Mr. DECONCINI. Mr. President, I am prepared to move ahead now and table the amendment, but we are waiting for one other Senator who wants to come over.

I hope the Senate will table this. I have a great respect for the Senator from Iowa. He has done a good job here. Often I have been with him, particularly on his taxpayer bill of rights. I would like to see that, and, frankly, if that were a condition of this $405 million compliance, then I would not be here asking for it. But the budget agreement did not make it conditional. What the budget agreement did is said that it is outside the caps, and it said that the Internal Revenue should certify, which they have done. The Budget Committee chairman here, who handled all of that negotiation in the budget, indicated that they have certified it, they are doing it.

In addition, as I pointed out, we put in the law that they shall do it. I do not know what more we could ask, what more we can do. Is there a gamble here? Yes, there is a gamble. The Senator from Missouri pointed out so well why the Senator from Montana says we have not been able to collect all this money on these initiatives, and that is because we here are mucking it around. The pay is the best example, asking these agencies to absorb the pay increase. If we go to the higher pay level of 2.6, which is not in this bill, if we go to that and say, "Absorb it," it is $700 million to come up with. If you are Internal Revenue, you take it out of some of these things.

But what we have said here is, for some of the initiatives, they cannot use this money for anything else. And we underscored that particularly because of the concern of those Members, such as the Senator from Iowa, that maybe this money will not be used for compliance, maybe it will be used for salary increases, for travel, for new computers.

It will not be used for anything but the compliance. So if they do not spend it, it is not going to be obligated, it is not going to go. They have the initiative and the incentive to get the job done here. Of course, if they are not to do it, I will not be here to cheer, to be on their backs. But I am sure plenty of people will be, because there has been a strong commitment made here that this money is going to be spent for this purpose and this purpose alone, and the law says it cannot be spent for anything else, and we have specifically told the IRS to institute the initiatives the budget agreement calls for.

Mr. President, in a few short minutes I am going to move to table.

Mr. BURNS. Mr. President, I rise today as an original cosponsor of the Grassley amendment to the Treasury-Postal appropriations bill.

I do not think the American people would be too happy to learn that this bill would allow the Internal Revenue Service to hire 5,000 more employees—at a cost of $405 million a year.

And to top it off, this cost would not be on-budget.

I cannot think of a more contradictory message to send to the American public—increasing the number of tax collectors in a time when the Government is trying to reduce the number of Federal workers.

According to the information I have seen, the IRS has seen a dramatic increase in the number of people it employes over the past decade. In fact, the IRS currently has almost 114,000 employees.

I think that the IRS has enough tax collectors already. In fact, I suspect that this agency will use these additional employees in ways that go beyond simple compliance.

I will give you one example. The IRS has been working to reduce the number of folks who classify themselves as independent contractors.

Many small businesses rely on the services of independent contractors—folks who provide their services for a fee, but who are not on the payrolls of businesses. The IRS, however, would like to see these folks classified as employees of these businesses.

If the IRS is allowed to hire another 5,000 people, I have a feeling that they would devote even more time and resources to pursue small businesses who use independent contractors in good faith.

Small business owners do not have the time and resources to defend themselves against these kinds of charges—not with all of the other requirements that the Government puts on them.

In addition, if the IRS increases its work force, then the Government will have to look elsewhere to meet its goal of reducing the work force by 272,000. I suspect that the Department of Defense will take the brunt of the cuts. I cannot support that.

This amendment will strip the $405 million in extra spending from this bill. I urge my colleagues to vote in favor of it.

Mr. KOHL. Mr. President, I rise today in support of Senator GRASSLEY's amendment to remove the $405 million provided in this bill for new IRS agents. And I admit, Mr. President, I do so with some regret. In the past, I have supported beefing up IRS enforcement.

Currently, IRS accounts receivable—that is money legitimately owed to the United States but not collected—is over $100 billion. That is money that could go to education, health care, economic development, or to reduce the deficit. But as long as it remains uncollected, it simply goes to the enrichment of tax cheats. That's not fair to the honest American taxpayers who pay each year for the service our Government provides.

So I would very much like to support the IRS enforcement initiative in this bill. I will not, however, because it is presented as off-budget spending not subject to the spending caps passed last year.

Mr. President, what sort of message do we send when we cheat on our own budget rules to pay for IRS agents to catch people who cheat on their taxes? If we support spending money to collect on our huge accounts receivable, and I do, we ought to be willing to pay for those agents on-budget.

Congress has no ability to make money disappear by declaring it off-budget. This $405 million will go into our bottom line. It will add to the deficit. It ought to be subject to the spending caps like all other discretionary spending.

Some argue that the off-budget treatment is justified because the $405 million goes into agents who will bring money into the Government—it is an investment. I am sure that is true, Mr. President, but I am also sure that Government investments in immunization, in education, in police, and in nutrition programs will save this country and this Government money in the long run, and they are not off-budget.

Mr. President, our new budget rules place tight limits on spending. Those limits make us choose between good programs and good Federal investments. If we believe a program, like IRS enforcement, is important, we make the choice to fund it. We don't—or shouldn't—make the choice to bend the budget rules to pay for it.

So, Mr. President, I will vote for the Grassley amendment, and I urge my colleagues to do the same.

Mr. DECONCINI. 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. DECONCINI. 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. DECONCINI. Mr. President, I move to table the amendment by the Senator from Iowa 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 (Ms. MOSELEY-BRAUN). The question is on agreeing to the motion to lay on the table the amendment by the Senator from Iowa, No. 1823, as modified. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN] is necessarily absent.

I further announce that the Senator from Connecticut [Mr. DODD] is absent due to illness in the family.

I also announce that the Senator from Nevada [Mr. REID] is absent attending a funeral.

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

The result was announced—yeas 54, nays 43, as follows:

[Rollcall Vote No. 155 Leg.]

YEAS—54

Akaka	Glenn	Mitchell
Biden	Gorton	Moseley-Braun
Bond	Graham	Moynihan
Boxer	Harkin	Murray
Bradley	Hatfield	Nunn
Breaux	Hollings	Packwood
Bryan	Inouye	Pell
Bumpers	Jeffords	Pryor
Byrd	Johnston	Riegle
Cochran	Kennedy	Robb
Conrad	Kerrey	Rockefeller
Danforth	Kerry	Sarbanes
Daschle	Lautenberg	Sasser
DeConcini	Leahy	Simon
Dorgan	Levin	Specter
Exon	Lieberman	Warner
Feinstein	Metzenbaum	Wellstone
Ford	Mikulski	Wofford

NAYS—43

Baucus	Faircloth	Mathews
Bennett	Feingold	McCain
Bingaman	Gramm	McConnell
Brown	Grassley	Murkowski
Burns	Gregg	Nickles
Campbell	Hatch	Pressler
Chafee	Heflin	Roth
Coats	Helms	Shelby
Cohen	Hutchison	Simpson
Coverdell	Kassebaum	Smith
Craig	Kempthorne	Stevens
D'Amato	Kohl	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	
Durenberger	Mack	

NOT VOTING—3

Boren	Dodd	Reid

So the motion to lay on the table the amendment (No. 1823), as modified, was agreed to.

Mr. DECONCINI. Madam President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

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

The motion to lay on the table was agreed to.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

ORDER OF PROCEDURE

Mr. DECONCINI. Madam President, I know the Senator from New Hampshire is ready to move on his amendment which I believe is going to require a vote. We have agreed to accept the amendment of the Senator from Delaware. I ask unanimous consent that we proceed to that amendment for not more than 7 minutes equally divided, and then we proceed after that to the amendment of the Senator from New Hampshire.

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

The Senator from Delaware is recognized.

AMENDMENT NO. 1824

(Purpose: Expressing the sense of the Senate that Canadian restrictions on imports of United States chickens should be eliminated and Canada should comply with its obligations under the North American Free Trade Agreement and the Uruguay Round Agreements)

Mr. ROTH. 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 Delaware [Mr. ROTH], for himself and Mr. PRYOR, proposes an amendment numbered 1824.

Mr. ROTH. 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. . SENSE OF THE SENATE REGARDING CANADA'S RESTRICTIONS ON IMPORTS OF UNITED STATES CHICKENS.

(a) FINDINGS.—The Senate makes the following findings:

(1) The United States chicken industry is a highly competitive and growing industry which employs over 200,000 people, has over 25,000 family farms, and has significant production in over 28 States.

(2) United States exports of chickens grew by 32 percent in volume in 1993 and exports are increasingly important to the continued economic vitality of the chicken industry.

(3) Canada's chicken supply management system has severely limited the importation of United States chickens to Canada since it was imposed over 15 years ago, and its elimination would lead to between $350,000,000 and $700,000,000 in new exports to Canada and between 7,000 and 14,000 new jobs in the United States.

(4) Canada's chicken supply management system protects Canadian chicken growers while seriously hurting both United States and Canadian food processors, retailers, and consumers.

(5) The United States and Canada have a free trade agreement which calls for the elimination of all tariffs and prohibits the imposition of new tariffs on any goods traded bilaterally.

(6) The goals of the Uruguay Round Agreement on Agriculture are to liberalize and expand trade in agriculture and to eliminate distortions to such trade.

(7) Canada refused to negotiate the issue of elimination of its severe trade restrictions on the importation of United States chickens as part of the North American Free Trade Agreement (hereafter referred to as "NAFTA") because the issue was part of the global trade negotiations under the Uruguay Round.

(8) The Uruguay Round has now concluded and the former and current United States Trade Representative, as well as other key cabinet-level officials, have stated that Canada will be in violation of its NAFTA obligations if it does not eliminate its newly imposed tariffs on chickens.

(9) The United States chicken industry has waited patiently for access to Canadian markets, which would be the United States largest export market for chickens if it were fully open.

(10) NAFTA should lead to free and completely open trade for the chicken industry between the United States and Canada, as it will between the United States and Mexico.

(11) The United States and Canada are currently holding discussions to resolve this and other bilateral agricultural matters.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the United States should reserve all current and future rights to bring Canada into compliance with its tariff obligations under NAFTA, including the use of bilateral or multilateral dispute settlement proceedings; and

(2) any agreement that is negotiated between the United States and Canada on chickens should lead to—

(A) substantial and immediate new market access opportunities for United States chicken exports in excess of the levels that have already been achieved; and

(B) a commitment from Canada before the effective date of the Uruguay Round Agreements which—

(i) establishes a timeframe for the elimination of all of Canada's tariffs on chickens; and

(ii) provides for growth in market access levels for United States chicken exports to Canada during the period such tariffs are being phased out.

Mr. ROTH. Madam President, this weekend there will be a very important meting at the ministerial level between the United States and Canada to discuss several bilateral agricultural issues. U.S. Trade Representative Mickey Kantor and Secretary of Agriculture Mike Espy will be representing the United States at this meeting, which I understand will take place in Chicago. The amendment I am offering, which is cosponsored by my distinguished colleague, Senator PRYOR, expresses the views of the Senate with respect to one of the key issues under discussion—Canada's trade restrictions on United States exports of chicken.

Madam President, for over 15 years, Canada has imposed a strict quota regime on the importation of poultry

under its so-called supply management system.

It has effectively restricted imports of United States chicken to well under 10 percent of Canada's domestic production and has prevented our competitive chicken and other poultry producers from increasing their exports to our largest trading partner. It has been estimated that if Canada's market were completely open, United States chicken exports would grow to $350 to $700 million per year and would create 7,000 to 14,000 jobs in the United States. Last year we exported just $90 million in chickens.

Our Nation's chicken industry has been growing rapidly and is a world class competitor. A substantial portion of this growth is due to exports. In 1993, for example, our chicken exports grew by 32 percent in volume. In the Delmarva region, exports doubled last year. Our exports would have been much greater if Canada's market weren't so protected. The key to continued growth for the United States poultry industry is full access to Canada.

It is expected, in fact, that Canada would become our largest export market for chickens, instead of remaining our third largest market, if there were open trade between our two countries.

Madam President, I and many of my colleagues have been urging for some time that Canada open its poultry market, most recently in a letter to Ambassador Kantor which 20 Senators signed. I urged this as a major objective during our bilateral free-trade negotiations with Canada and later during the negotiations on the North American Free-Trade Agreement [NAFTA]. Unfortunately, we made no progress in eliminating Canada's quota regime during these talks. We were, however, able to agree to the elimination of tariffs on all goods between our two countries and to the prohibition of any new imposition of tariffs.

The recently concluded Uruguay Round Agreement on Agriculture mandates the elimination of all non-tariff barriers by converting them into tariffs, which requires Canada to turn its poultry quotas into tariffs. This new agreement, combined with Canada's bilateral tariff obligations to us under NAFTA, means that free trade in chickens is now within our reach.

I am extremely disturbed that the Canadian Government is refusing to recognize this fact and continues to refuse to open its market to us. Madam President, I supported both the Canadian Free-Trade Agreement and NAFTA, and it is high time for our free-trade agreement to actually lead to free trade for our chicken industry.

As everyone knows, the most basic, fundamental aspect of any free trade agreement is the elimination of tariffs.

The sense-of-the-Senate resolution I am offering underscores all of these critical points. It also expresses the views of the Senate with respect to what our overall goals should be in the upcoming high-level meeting this weekend.

There are two critical points that our negotiators must not lose sight of. First, we should reserve all of our rights, current and future, to bring Canada into compliance with its tariff obligations under NAFTA. If Canada will not implement its free-trade obligations, our only option may be to pursue formal dispute settlement proceedings.

Second, any agreement that is negotiated to resolve this bilateral dispute should accomplish two things: It should create substantial new export opportunities for United States chicken producers, and it should include a timeframe for phasing out and eliminating all of Canada's tariffs on chickens. These tariffs should be phased out as soon as possible, and there should be growth in market access levels during the transition to free trade.

We are on solid ground in insisting on our free-trade rights for our chicken exporters, and our chicken industry and workers deserve nothing less.

I urge the adoption of this amendment.

Mr. DECONCINI. Madam President, the Senator from North Dakota wanted to debate this for 1 minute or 2. I reserved 2 minutes, but I ask unanimous consent that the Senator have 3 minutes to respond to this amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from North Dakota [Mr. DORGAN] is recognized.

Mr. DORGAN. Madam President, I have not had an opportunity to read the amendment, which apparently is going to be accepted. I do not stand to object to it. I understand that some are concerned that in the discussions with Canada, particularly those now scheduled in Chicago on the 27th, in the give and take of the trade that goes on in negotiating sessions, one might expect to get certain things for wheat producers and give up certain things for other sectors. I understand that concern. So I, not having read this, will not object, assuming that the purpose on the front page expresses the sense of the resolution.

But I want to make one thing clear: When our negotiators go to Chicago, one of the important issues to be discussed in Chicago is the durum wheat and barley issue. We are being flooded with unfairly subsidized grain from Canada. An article 28 action has been filed under GATT, and also a section 22 complaint.

We expect the United States Trade Ambassador and the Secretary of Agriculture to go to Chicago and sit down and negotiate with Canada. But if they cannot negotiate an adequate settlement—and I am talking about a settlement that establishes limits on the amount of wheat and grain coming in that is unfairly subsidized—then I do not want an agreement at all. I do not want a bad agreement; we already have that. We were sold out in the negotiations with Canada in the first place. Clayton Yeutter, who represents now the same interest he probably helped then, was the Trade Ambassador then, and they sold out the agricultural interests in the first go around. We are stuck with a flood of unfairly subsidized grain, costing us hundreds of thousand of dollars of lost revenue.

If we are going to instruct the Trade Ambassador with respect to chickens—and I do not know about chickens, but I know about wheat, barley, and durum—I want our Trade Ambassador to understand that when you sit down with Canada, we do not want you to accept just any agreement, only a good one, one in which we limit the quantity of Canadian grain coming in and unfairly competing against American producers. If they cannot get that kind of agreement, I want a section 22 complaint to play itself out, an article 28 filing—which has already been done—and I want significant import restrictions on the grain flooding across the border from Canada.

This is not fair trade or free trade. It is not two-way trade that is fair to our farmers. We have been literally taken advantage of and, frankly, I am sick of it. Over 50 months ago, I held the first hearing on this and could not get the time of day at USTR. Finally, we may get action on behalf of our grain producers.

I do not deny the concerns of the Senator from Delaware on behalf of another sector. But I want the same message, if we are sending messages to USTR. And if there is agreement, it better be a decent agreement on behalf of our grain producers to solve the unfair trade. If not, let us set up the import restrictions, and do it now and not later.

I will not object, and I will yield the remainder of my 3 minutes.

Mr. DECONCINI. Madam President, I am thankful that the Senator from North Dakota has pointed out some different views here, and I am really not in a position to dispute either side here.

The amendment, as I understand it, is not objectionable to the Senator from Arizona. I am prepared to take it. I tell the Senator from North Dakota that I am going to talk to him about his concern as we go to conference, and I will tell the Senator from Delaware that I will look at it again. I was not aware of the arguments that were put forth here. For purposes of tonight, I am prepared to accept the amendment.

Mr. BOND. Madam President, on this side, I note for the RECORD that Senator PACKWOOD, the ranking member of

the Finance Committee, has expressed his concern that this is legislation within the jurisdiction of the Finance Committee. But there are no other objections to this amendment that I know of on this side.

Mr. DECONCINI. Madam President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1824) was agreed to.

Mr. ROTH. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

MOTION TO RECOMMIT

Mr. SMITH. Madam President, I send a motion 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 New Hampshire [Mr. SMITH] moves to recommit H.R. 4539 to the Committee on Appropriations with instructions to report the bill to the Senate, within 3 days (not counting any day on which the Senate is not in session), with an amendment reducing the total appropriation provided therein to a sum not greater than its fiscal year 1994 level.

Mr. SMITH. Madam President, I ask for the yeas and nays on my motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SMITH. Madam President, for the benefit of my colleagues, I will be no more than 10 minutes or so in my remarks, unless I am engaged by some on the other side. Then there should be a recorded vote.

Former President Reagan used to have an expression where he said: "Here we go again." And here we go again. We just rejected an opportunity to save $405 million on this appropriations bill, taking 5,000 IRS agents out of the IRS. That was rejected with a vote of something like 55–43. So there is not a great deal of optimism that I have that my amendment will not meet the same fate. But I believe history will judge us in the way we conduct ourselves here, and I think history is going to judge the neglect we have provided to the national debt and deficits and keep adding to that debt in this country.

I think history will judge that we were seriously wrong, and that we passed a huge debt on to our children, and that is wrong; and that one of the ways we can deal with this specifically, when they come to the floor of the U.S. Senate, are the appropriations bills.

I offered an amendment to recommit the legislative appropriations bill last week, and it was defeated by a voice vote with very few people here to really care one way or the other. That would have saved $93 million.

I just watched Senator GRASSLEY's amendment go down which would have saved $405 million. A million here and a million there, as Senator Dirksen, from your State of Illinois, used to say, it soon adds up to real money. So now it is a trillion here and a trillion there.

So the bottom line is nobody should be fooled. The U.S. Senate is not interested in saving money, in saving taxpayer money, because, if they were, it would not be rejecting amendments like this, No. 1, like the Grassley amendment; No. 2, they would not be increasing the appropriations bills as they come before us on the Senate floor. You cannot reduce spending if you increase appropriations bills. That is really not all that complicated to understand, but that is what we are doing.

Now, let us look at the one before us. The amount of the bill that is sent up here today is $23,573,863,000. The amount enacted in 1994 fiscal year was $22,538,822,000. Now, where I took math the difference is $1,035,041,000. That is how much we are spending over last year's bill. That is what is before us today.

Senator GRASSLEY did try to get $405 million off it, and he failed. But we are spending over $1 billion more than we spent last year in this appropriation.

So when you go back tomorrow to your constituents and you tell them you want to cut spending and you favor reducing spending of the U.S. Government, I hope you are going to also be able to tell them you voted for this amendment because it is pretty difficult to justify to say you want to cut spending if you are not willing—I am not even asking you to cut spending. I am asking you to come in at last year's level. I am asking you to cut the increase of $1 billion.

I said it last week on this floor, and I am going to say it again this week and again next week and the following week and every week that an appropriation bill comes on the floor of the U.S. Senate that has more money than it had last year, because it is wrong.

We have all kinds of reasons. There is always a reason, all kinds of justifications. But these increases are simply unacceptable. They are unacceptable when we go out and face our constituents and hear the hardships they are having trying to meet their tax requirements every day of their lives. And here we are increasing spending. Talk to your constituents and they will tell you they want the Government to cut spending. They want it to reduce spending.

But, no, we are not only not reducing it, we cannot even come in at last year's level, and that is all I am asking. This is not a cut. It is a reduction of the increase.

The question is, why should we spend more money than we did last year? Why? We have a $4.5 trillion national debt. The deficit will run at least $170 billion this year.

Here is our chance to take one paltry billion, one little billion. It is a lot of money, but it is really quite little compared to $4.5 trillion, is it not? The $1 billion increase—and this is very important because a lot of people think we just reach up and pull the money down off the tree and spend it. After all, this is a $23 billion appropriations bill we are talking about here. This $1 billion increase in this legislation is borrowed money. I say to my colleagues we borrowed this money. We do not have a surplus in the Treasury. There is no surplus there. So, we cannot reach up there and take $1 billion and say, OK, we are going to add it to the appropriations last year and spend it on all these worthwhile causes. No, we are not doing that. We are borrowing that billion dollars.

Now when you borrow $1 billion at roughly 7 percent interest, that is an additional $70 million in interest costs alone on this $1 billion, not on this bill, this billion, $70 million in interest.

So, we are spending borrowed dollars, spending borrowed dollars, when we ought to be finding ways to offset so we do not have to borrow more and pass this debt on to our kids.

You realize how selfish, how selfish we are, how selfish and inconsiderate we are, passing on this kind of monumental debt to our kids. That is what we are doing. And everybody stands up here on the floor and says this is a great cause. We need to have this money. If we do not have this billion-dollar increase, the whole Government is going to fold up. My goodness, I am sure the whole Government will just close down. We have to have this $1 billion increase. We cannot live without it. We could not possibly live on what we had last year.

Let me tell you something, Madam President. There are millions of families out there who are living on what they had last year and millions of families out there that are trying to live on less than they had last year. I cannot understand why we cannot set an example in the U.S. Senate.

Madam President, the OMB estimates that the Federal Government will spend more than $1.5 trillion in the upcoming fiscal year. The breakdown is not very complicated. It is easy to figure. Mandatory entitlement spending will consume about $775 billion of that. Net interest on debt, an item that is difficult to reduce unless you reduce spending, will total approximately $213 billion in fiscal year 1995. Interest on the debt in fiscal 1995 will be $213 billion. Very soon, not too many years, maybe by the end of the decade, interest on the debt is going to pass defense spending in the budget of the United States of America.

That is a pretty sad commentary. Defense spending now is roughly $270 billion, and the lines are coming and they are going to cross, and interest is going to go up this way and defense is going to go down this way.

We are going to spend in this overall budget about $18 billion on international affairs and, last and by no means least, $270 billion in the domestic discretionary category. Total spending is $1.52 trillion, with a T; total revenue is $1.4 trillion; the total deficit $171 billion.

This takes $1 billion—$1 billion—off of that deficit. Not only does it do that, it takes $70 million, $70 million in additional interest expense.

Do you know what this will mean ultimately if we do not stop this insanity? Total bankruptcy for the United States of America.

I have mixed emotions about being here as an observer somewhere out in the hills of New Hampshire or perhaps here on the Senate floor and watch those who year after year, day after day, month after month, continue to increase this spending. I want to hear what they have to say to their constituents and to the American people when the country goes bankrupt, when we do not have any money in the Social Security trust fund or Medicare or Medicaid or for the defense of America. What are you going to say then? When are we going to stop it? Our spending addiction has got to end sooner rather than later, I hope.

I know that our spending program is not isolated in this area, to the credit of those who are managers of this bill. I realize that. It certainly is not their fault that we have a $4.5 trillion national debt. However, we have an opportunity to make a small dent in it. But instead we are going to increase it.

The only opportunity we have is to deal with the 13 appropriation bills as they come down and to reform entitlements. Those are the only two things really we can do, because until we reduce the debt we cannot reduce the interest payments on the debt.

So already, between the legislative branch bill considered last week and the bill before the Senate today, Congress is spending $1.1 billion more than we did last year, $1 billion, a little over $1 billion today and $93 million on Thursday, so about $1.1 billion, a little over. That is what we have added. That is what we are adding to the deficit just with these two votes.

It will be interesting, Madam President. I cannot wait to see the result. It will be interesting to see how many people step up and say, you know, maybe we could afford to take one little paltry billion dollars out of a $1.5 trillion budget. It will be interesting to see how many votes we get. I predict 30 to 35 max. We will see.

What signal does this send the American people? I would ask my colleagues, what signal does it send the American people when we do this time after time after time? If we cannot cut a little, make little reductions like this, how do you expect to ever get into entitlement reform; how do you ever expect to pay off, let alone begin to pay off, how in the world will you ever be able to expect to pay off a $4.5 trillion national debt? Believe me, the archeologists are going to be digging up our graves by the time that is paid off and wondering what in the world we did during this era of time.

When I hold town meetings in New Hampshire to discuss the deficit and talk about the need for entitlement reform, you know, frankly, many of my constituents, some of them Social Security recipients, some of them on Medicare, even Medicaid, say to me,

> We are willing to help. We might be willing to have our entitlements frozen, but I don't want to read about waste. If you are going to take my COLA or cut my COLA or reduce my COLA, I don't want to read about you wasting billions of dollars in some pork project that some particular Senator or Congressman decided that they want to put into some appropriations bill without an authorization. I don't want to read about that. I do not want to read about waste.

And they are right. They should not. But if they read these reports on these appropriations bills, they are going to find bad news in there, bad news.

When are we going to stop?

I care about my country. I care about my country very much. I am really sad to see my colleagues passing time after time after time spending increases, not willing to make those tough decisions —this one is not all that tough— tough decisions, not willing to make them and passing on this debt.

The equivalent of this is you are leaving your mortgage payments to your children, rather than your home. That is what we are doing. Most of us would prefer to leave our home, our assets, not our liabilities to our children.

Why do we in this body, in the Congress of the United States, the U.S. Senate, feel that it is right to pass on a debt of $4.5 trillion to our children?

And I wish it stopped there. It does not stop at $4.5 trillion. It is growing at approximately $175 billion a year being added on to that debt. And that is going to go up even more dramatically after the turn of the century to approximately $350 billion a year, all of that money being added to the debt to where you get up to the year 2010 or so and you are going to be looking at a $6 trillion or $7 trillion national debt, maybe higher, at which point we will not be able to recover.

Take a $10 trillion national debt, for example. Seven percent of that is $700 billion a year in interest. That is what that would be when we get to that point.

Now how do we stop it, if we do not cut spending, if we do not balance the budget? We already rejected a balanced budget amendment here. We have rejected numerous requests for fiscal restraint responsibility in here.

We always say we do not need it. I heard it said on the floor of the Senate by many of my colleagues, some who have been here a lot longer than I have, "We do not need a balanced budget amendment. We just have to exercise fiscal restraint."

I hope those who were making that argument will come out here now and say, "I am going to exercise fiscal restraint. It is time. You are right, Senator SMITH. I did say that and here is my vote for your amendment. We will take that billion."

Would it not be nice? I think we would surprise the American people.

I can say one thing. A lot of my colleagues are going to be surprised in November if we do not start exercising fiscal restraint, because that is what the American people want. They do not want debt passed on to their children.

You know, I am amazed, I used to serve on a local school board. I will tell you, there is no way that the constituents that I represented would allow me, as the chairman of that school board, to come out and say, "Folks, we are going to deficit spend. We do not have enough money, so we are going to have to borrow red ink and deficit spend."

No way. It would not work. They would come to me and they would say—and they did—"Cut spending somewhere. I don't care where you cut. You are the board members. You cut it. But we want the budget balanced."

That is what the American people want us to do in this place. But at the Federal Government level, we do not do it.

So let me just say this, Madam President, in conclusion. There is always a reason why we should increase spending, and I am sure we will probably hear some before the debate is over. But it is not good enough.

This Congress is not accepting the challenge. This is a major challenge; this is America at stake, the fiscal responsibility of this country.

If we do not start with one little area of an appropriations bill—I am not asking you to cut it by 10 percent, 20 percent, even 1 percent. I am asking you to come in at last year's level, spend what you spent last year, make due with what you had last year, show the way on one appropriations bill. That is all I ask.

Instead, we have already considered two, when this one is over, and each is proposed to spend more money than we did last year.

So, again, if this amendment is defeated—and I believe that it will be —we will have a $1.1 billion increase to our deficit which, in turn, will be added to the debt.

The word austerity does not leap to mind when I think of the U.S. Senate, Madam President. I am offering my

colleagues a very simple choice. There is not anything complicated about it; nothing complicated about this one: You want to cut spending? You vote for the Smith amendment or the motion to recommit. That is what I am asking. If you do not want to cut it, then you do not.

But let me point out, this is a motion to recommit. It gives the committee the full flexibility, the Appropriations Committee. I am not going across the board with cuts. I am not singling out any program. I am simply asking the committee to come back in where they feel they want to do it, wherever they want to do it. They are the experts. They are in there. Come back with what we spent last year. That is what this motion to recommit does.

Again, "cut" is the wrong word. "Freeze" is the right word. So you either want to freeze spending or you do not, not cut spending.

Should Federal spending on the Treasury, Postal Service, and other independent agencies be increased from last year's level or should it be decreased? Or do we owe the American people at the very minimum our vote to hold the line on spending? I think we owe them a vote to hold the line on spending, a very minimal line, I might say.

Madam President, in closing let me just repeat. My motion is to recommit the bill to the Appropriations Committee with instructions that they report a bill that does not exceed last year's spending levels. They have the full flexibility to do it. If they do that, we will save $1 billion-plus on this vote alone in the U.S. Senate.

I yield the floor, Madam President

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Thank you, Madam President.

My friend from New Hampshire is correct. This bill is indeed $1.116 billion above the fiscal year 1994 enacted levels. There are increases in these appropriations bills. But, I would note that the committee has already reduced the President's request by $794 million.

Now, what may escape the attention of some of my colleagues is the fact that mandatory increases which authorizing committees, not the Appropriations Committee, have jurisdiction over total $709 million above the fiscal year 1994 level.

My colleague made some comments about dealing with entitlements and mandated spending. I look forward to joining him to work on those, because anybody who looks at the spiral in spending by the Federal Government realizes they come from directed spending programming, not programs subject to discretionary appropriations.

There is another measure in this bill, the $405 million which is above the budget request. That was just approved on a 54–43 vote.

My colleague says that this is additional spending. He is concerned, as I am, about the national debt. This $405 million compliance initiative over 5 years will raise a net of $7 billion to go to reducing the debt. If he is concerned, as I am, about the size of the debt and our inability to reduce that debt, then I would assume that he must have voted for that compliance initiative. Because when you have only 83 percent of the taxes owed actually being paid, those of us who are complying voluntarily are carrying the load of the 17 percent who are not. And we are seeing voluntary compliance go down because there is not sufficient credibility that people who do not comply voluntarily will be pursued.

If you take out the mandatory $709 million above the 1994 level and the $405 million that we just approved by a specific vote to lower the debt by $7 billion over 5 years, the new funding, discretionary funding added on in this bill, would be less than $2 million above the fiscal year 1994 level.

This committee cannot reduce the mandatory accounts. So to take the bill back to the 1994 levels, there would have to be an across-the-board reduction of approximately 10 percent. There are very few programs in the bill so most of the money goes for salaries and operating expenses of agencies. Reductions would in fact cause management problems for all agencies.

But let me tell you specifically what it would do. I think it is probably an inadvertent impact of the motion that my colleague from New Hampshire has made, and that would be to cripple the war on drugs and crime by making deep cuts in drug-related law enforcement.

One of the things that we have been able to do in this bill is to restore cuts in law enforcement made by the Clinton administration, set up by the Office of Management and Budget. These are the additions that would be most at risk, were this motion to be adopted. We were able to restore 110 Customs agents inspectors; 10 positions for pilots and crew; $8.8 million to enhance air operations; $20 million from the drug czar forfeiture fund for air and marine operations; 71 positions as Secret Service agents for counterfeiting and entitlement fraud investigations; 22 positions for ATF agents specializing in enforcement activities; 7 positions in Federal law enforcement training efforts; 2 positions for financial investigations in the FinCen.

I am very proud to have played a role in restoring these cuts, because I believe these positions are vital. The Federal Government must continue aggressively and offensively to fight the war on drugs.

A week or two ago, I met with chiefs of police, prosecutors and Federal law enforcement officials to discuss what they believe will and will not work fighting crime on the streets. In real life, this group represented law enforcement officials with a wide range of experience, from the inner city of St. Louis to the most outlying suburb. In this meeting the crimefighters all agreed that only with strong support from the Federal Government can the drug war be won. Yet the Clinton administration proposed to slash the drug czar's office by 84 percent, and the State Department's international narcotics matters budget by 32 percent over the last 2 years. And in this year's budget proposal, the administration sought to eliminate drug enforcement grants completely.

In my State, law enforcement officials urge that there is a need for a comprehensive approach to fighting the drug war, a comprehensive approach that includes money for treatment but which also makes funding for interdiction an integral part in combating drugs.

Only the Federal Government has the resources and the jurisdictional authority to interdict drugs at our borders. It is a vicious, insidious horrific chain. If we allow more drugs to leak into the United States, then more drugs end up in our neighborhoods, more crimes are committed by those using and selling drugs, more crimes are committed to get drugs, more crimes are committed under the influence of drugs, and tragically, more people become drug addicted and need treatment. We need to weaken this chain of crime and devastation at every link—not strengthen it by ignoring interdiction or by forcing cuts in this appropriations bill that will take money from drug interdiction efforts.

Local authorities depend upon drug enforcement grants to State and local governments to fund multijurisdictional drug teams, street level enforcement teams to shut down neighborhood drug dens, drug crime laboratories that share technology and expertise with local officials, and treatment for drug offenders. At least one Missouri law enforcement official told us the worst thing we could do on drug law enforcement was to cut the grant money from the Regional Information Sharing System and the Byrne grant money.

Once again, in my meetings with local law enforcement officials one theme continues to surface. The State and local law enforcement officials that I met with in southeast Missouri attributed much of the alarming rise in crime, both violent and nonviolent, to the distribution, use, and addiction to illegal drugs.

Furthermore, State and local law enforcement officials have stressed that, in light of manpower limits and budget constraints on training and equipment, it is vital there be Federal law enforcement entities with whom they can work cooperatively.

One officer from a very small town, Marble Hill, MO, told me:

When we become involved in a major crime or investigation, it is a comfort to know that the federally funded agencies such as DEA, FBI, ATF, Federal Marshals and the National Guard are there for much-needed help and resources. These agencies are very critical in the outcome of having adequate law enforcement here. When their budgets are being cut and decreased, our means and ways of getting outside help and assistance are also cut and decreased.

Madam President, I cite that as an example of the degree to which State and local law enforcement officials depend upon Federal drug assistance, Federal drug law enforcement assistance.

Frankly, to recommit this bill to freeze it would put at risk, obviously, not all of those drug enforcement activities, but the Customs agency inspectors, the air operations, the drug czar, the Secret Service agents, the ATF agents—people who are providing a vital link and a vital resource in fighting crime that devastates our States, our communities, our neighborhoods.

We need to get our debt and our deficit under control. Trying to nickel and dime law enforcement, which would be the most likely outcome of this measure, is not the way to do it. If we are to avoid seeing the deficit skyrocket we have to be able to collect the taxes. IRS does that. We also need to have the resources to help local law enforcement officials combat drug activities in the States and to interdict drugs coming in from across our borders.

Madam President, I hope my colleagues will not support the motion to recommit.

The PRESIDING OFFICER (Mr. FEINGOLD). The Senator from New Hampshire.

Mr. SMITH. Mr. President, I do not wish to prolong this much longer, but I do want to respond to a couple of points the Senator from Missouri made.

First of all, the motion should be fully understood. I thought I made it clear. The motion to recommit does not tell the Senator from Missouri or the Senator from Arizona to cut any specific program. It does not say where he should cut. You do not have to cut anything. All we are asking in the motion is that the Appropriations Committee find dollars wherever they see fit to bring the budget in line with what it was last year. That is what it says.

Do not read more into the motion than what it is. I did not say cut law enforcement. I did not say cut drug enforcement—not at all. As a matter of fact, I agree with the Senator on those points. So I would also point out that just on the previous vote we had an opportunity to take $405 million of the $1 billion I am looking for from IRS agents. I do not know what that has to do with drugs but that is a fact. We rejected that. So it is a very weak argument.

Also, I want to say I have been in the Congress of the United States for 10 years—not as long as many of my colleagues—but I have been here for 10 years and I heard the argument in every single debate that we have on any matter to cut spending. I hear the same argument, over and over again. If we would just spend this money, we are going to save all this money and we are going to have tremendous savings.

It would seem to me by now we ought to have a balanced budget, if that is the case. If we are going to spend all this money to make money, then we ought to have a balanced budget. It is not working that way, folks. It is going the reverse.

In the last 10 years the debt has tripled. It has not gone down, it has gone up. So it is not working. Somebody better get the message. Spending money to make money is not working, folks. It is time to cut spending. That will work; I guarantee you that will work. If you do not have it, you cannot spend it.

My colleague from North Carolina—and I want to close on this point—spoke on the floor yesterday, and I think a small portion of what he said is worth repeating because it goes right to the heart of this entire debate, in case somebody missed it.

Senator HELMS said as of Friday on June 17 at the close of business the Federal debt, down to the penny, stood at $4,591,908,053,316.92 That was as of Friday. It is a lot more now. Several days have past.

But this debt was run up by the Congress of the United States of America. You cannot blame anybody else. There is nobody else you can blame. You cannot blame any President, Democrat or Republican. You cannot blame President Reagan or President Clinton because we appropriate every dime. That is exactly the point Senator HELMS makes. "The U.S. Constitution is quite specific about that," Senator HELMS says, "as every school boy is supposed to know."

Senator HELMS goes on to say: "Most people cannot conceive of a billion of anything, let alone a trillion."

Let us get some idea what a billion and a trillion means in another picture here. This is what Senator HELMS says:

It may provide a bit of perspective to bear in mind that a billion seconds ago, the Cuban missile crisis was going on. A billion minutes ago, not many years had elapsed since the crucifixion of Jesus Christ.

That sort of puts it in perspective, does it not, that Congress has run up a Federal debt of $4.5 trillion? In other words, the Federal debt, as I said earlier, stands today at $4,591,908,053,316.92. Those words are very accurate and, frankly, they are very indicative of what the problem is in this place.

Again, I heard it just seconds ago from my colleague from Missouri: "We have to cut the debt. We have to cut spending." But nobody wants to do it. Nobody wants to do it. In your household if you cannot make ends meet you cut somewhere. If your car breaks down and you want to go on vacation, you cancel the vacation. We do not cancel anything around here. We just borrow more money, over and over again.

You would think I was asking for us to cut $25 trillion out of the budget or something. I am asking for $1 billion, to come back at last year's level. I am not cutting a nickel.

The other argument that was used was, "Well, the President's budget"—I do not care what the President's budget is. If the President's budget is over, we should deal with our own budget. We can work the President's budget into our debate, but whatever the President sends in is not relevant.

The question is, What did we spend last year? Are we spending more than last year? And the answer is yes, over $1 billion more than last year on this one appropriations bill.

You cannot reduce spending if you do not vote to do it. There is nothing complicated about it. So bear in mind, as you evaluate those who vote, as the citizens of America evaluate those who vote on this amendment, take a look at those votes on this amendment. The next time somebody who votes against it says to you out there, "I support cutting spending," ask them, "Where were you on this vote?"

It is not cutting spending even, it is freezing it.

Mr. President, I yield the floor.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, as to the freeze amendment offered by the Senator from New Hampshire, first of all let me say, I understand where he is coming from because we all talk about cutting the deficit. But I think the Senator probably will agree that the biggest problem of not cutting the deficit, no matter what we do with budget resolutions—even when we adopted the President's economic plan that did cut the deficit—we cannot really get at the deficit until we do something about entitlements.

The fact, for whoever is listening, if they want to know it, is that this bill, as the Senator said, is over $1 billion, slightly—$1,115,497,000, as I see it, above last year's level.

Four hundred six million dollars, or $405 million we just voted on. We know what that is. It is clear. The Senate said we are not going to cut that out because we want to go after those taxpayers who have not been paying, and that I think is set behind us.

So now where is the rest of that increase? The rest of that increase, some

$708,674,000, is mandatory expenses. That is right, you have it—entitlements. Things that we cannot cut here. We do not have the jurisdiction.

The Senator's amendment, though it applies across the whole board, is not going to reduce the mandatories. And what are these mandatories? They are the civil service retirement, something we have to enact by law, the money has to go; there is the health and life insurance and disability payments, something that we have to enact.

Having said that, we are in this bill $329,780,000 below the President's request. Excuse me, we are $793 million below the President's request. So we have made cuts here.

There are increases over last year, and the mandatories take up the bulk of that. Then you add the enhancement which we just voted on, and there you have it.

So what are you going to do? I do not see any amendments to go after civil service retirement, but that is what you have to do if you really want to cut across the board. And we are just not doing it.

We cannot reduce these mandatory accounts. Those funds have to be paid out, and they are going to come out. So what is left?

If this amendment is adopted, we go back and what do we cut? The Senator from New Hampshire says you do not have to cut the National Drug Control Policy special forfeiture fund; you do not have to cut Customs; you do not have to cut IRS criminal investigations; you do not have to cut the ATF, Alcohol, Tobacco and Firearms; you do not have to cut the Secret Service that not only protects the President but does fraud cases; you do not have to cut these things. You make up your mind.

I am telling the Senator, we have no choice except to do what the Senator from Missouri has indicated. We will cut the drug program. That is what is going to get cut here because we cannot cut the mandatory programs.

So the Senator puts us in the worst of positions that we have to go and cut Customs, the air interdiction program, the marine interdiction program, the effort, and that is already cut over last year by some $24 million. That is below last year's level. I can go through program by program and point out where we made cuts. It gets back to the reason that we have increased at all here: because of the compliance initiative, and the mandatories.

To me, this would not be a fair amendment and really enact a freeze, because if you do not do entitlements, and you have decided that you are going to do the compliance initiative, we are at a freeze. Actually, we are below the President's request because we made some cuts. But we did not make it in law enforcement, we did not make it in the drug interdiction program.

So I hope at the appropriate time when this Senator moves to table this amendment, that the Senate will go on record that we have a freeze here, and until there is somebody who wants to stand up and take on the entitlements, this is just a game. We are not spending more from the standpoint of the discretionary part of this bill.

We have made cuts, and I can go through them item by item: The department office in the Treasury is a $3 million reduction; the U.S. Customs, we cut some there in order to get back to some of the law enforcement; salaries and expenses, we cut $13 million; Internal Revenue, we even made reductions there, trying to get below, because we knew we would have this question on the initiative. And we cut $6 million out of the administration and management account; we cut $1,191,000 out of OMB. We asked them to take a bite. In the construction account, the President requested $999 million. We cut it.

Now, the Senator wants to make it real easy; if you are for deficit reduction, just vote for this because here it is. Well, I am for deficit reduction, and I produced a bill here with the Senator from Missouri and the entire Appropriations Committee that does stay within the caps, funds the mandatories, and makes a substantial reduction of $793 million below what the President requested.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. I apologize to my friend from Colorado. I will be very brief.

The Senator from Arizona again makes the case that somehow I am cutting these programs. I am not asking the Senator to cut those programs. I am asking him to look at the area that he has responsibility for and make cuts where he sees fit. He saw fit to add $405 million after making those cuts for 5,000 more IRS agents.

So I find the Senator's argument very difficult to comprehend. I mean it is nice to go to the town meetings and you can say about the Smith amendment, I did not vote for it because it was going to cut crime or it was going to cut drug enforcement. The truth of the matter is it does not do either. The Senator knows that.

Mr. DECONCINI. Will the Senator yield?

Mr. SMITH. Yes.

Mr. DECONCINI. Where would the Senator cut it then if he were on this committee?

Mr. SMITH. I would take $405 million, I would take half of it from the IRS agents.

Mr. DECONCINI. I appreciate that, and we already voted on that, but it was turned down.

Mr. SMITH. That is correct.

Mr. DECONCINI. OK. Now, where else would the Senator cut? Where else would the Senator cut it?

Mr. SMITH. I am directing the Senator——

Mr. DECONCINI. That is right, and I am telling the Senator what we would have to do to get that additional $708 million. We would have to cut law enforcement and the drug interdiction program.

Mr. SMITH. The point is if the Senate of the United States feels that that is what the Senator should do as the chairman of that committee, that is what he would be directed to do with this motion to recommit.

The truth of the matter is the Senate will do that only if they want to reduce spending, and I would just say, not to belabor the point, but for the Senator to stand in this Chamber and say that somehow we have to deal with entitlements if we are going to get a handle on the budget deficit and the debt, I totally agree with him. But if we are not willing to freeze a $1 billion increase in one appropriations bill, how in the world are we going to have the courage to go out and face entitlement reform? It is the most ridiculous argument I have ever heard. If we are not willing to do that with $1 billion in a freeze, how in the world are we going to face up to entitlements? The point is nobody faces up to anything. You have to take one step before you walk a mile. And nobody wants to take the first step. That is the bottom line.

Mr. DECONCINI. Will the Senator yield?

Mr. SMITH. Yes, I will yield.

Mr. DECONCINI. I just want to point out that, if the Senator wants to be really constructive here, I would welcome him suggesting where he would cut. We already know the $405 million, and we voted that out, so that is not going to happen. So where else would he cut out of that discretionary area?

Mr. SMITH. I would say to the Senator——

Mr. DECONCINI. Lay out $700 million of cuts, and I daresay the Senator will not be able to not cut into the drug program, not cut into the drug czar, not cut into the Customs drug program or the commercial trade program or not cut into the ATF or the Secret Service.

I know the bill pretty well. I think the Senator from New Mexico, who used to be the ranking member, would agree that it is hard—hard—to find that money if you are told to go back and cut $1 billion out of those areas and not cut the drug and the crime-related areas.

Mr. SMITH. I would say to the Senator again, we are not cutting $1 billion. We are coming in at last year's level. You are increasing last year's level $1 billion. We are not cutting anybody. We are cutting only because you have increased it with what you have brought up here, including $405 million. That is the point that I wish to make. And I would say to the Senator, if he

votes for and this amendment passes, this motion to recommit, I will work with the Senators in areas to cut other than drug and law enforcement.

I ask unanimous consent to add as cosponsors Senators BROWN, ROTH, and FAIRCLOTH.

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

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, I rise in support of the Smith amendment. I have cosponsored this not out of a way of condemning the work of the Appropriations Committee or the distinguished subcommittee chairman who has brought this measure before us. As a matter of fact, the Senator from Arizona has pointed out that this is within the budget guidelines, that it is less than what the President asked for. I believe both of those statements are accurate, and he is to be commended for having made that progress.

The reality is that our history in the last 15 years is that Congress has consistently overspent its own budget, not only the President's budget but its own budget. So to have fit this measure within the budget as clearly as has been done I think is something that he is to be proud of, not ashamed.

But I rise in support of the amendment out of an additional concern. What we spend is not simply a function of what we would like to spend in each area but it is a function of what we have. Senator SMITH has pointed out the awesome size of the national debt. I would draw Members' attention to another item.

Included in the President's budget package that he sent to Congress and, frankly, included in President Bush's last budget message, was a reference to generational accounting. That generational accounting has a very interesting calculation. Included in that is an effort to estimate what someone born today would have to pay in the way of taxes simply to pay for the programs that are already in existence. This assumes not overspending the budget by a penny. It assumes no new programs. It assumes that our estimates, economic estimates, are valid. I think Members of this body and American citizens will note none of those things have happened. In other words, we have in the last 15 years always overspent our budget. We have always had overly optimistic assumptions. At least on the average they have been overly optimistic. And you have also seen crises declared which end up overdoing it, and we have ended up every year adding new programs.

But even assuming you add no new programs, the economic estimates are sound, and you do not overspend the budget, President Clinton's own estimate is that someone born today would pay 82 percent of everything they earned in their lifetime in terms of taxes; 82 percent simply for the programs that are already on the books.

That includes local, State, and Federal combined. But part of our decision as to not only what we would like to appropriate but our ability to appropriate has to include our ability to continue to pay these budgets.

It seems to me the proposal of the Senator from New Hampshire is a modest one. He is not talking about cuts. He is talking simply about staying within the amount that was appropriated in the prior years. I believe we can do it. I have faith in the Appropriations Committee to set priorities.

Is it going to be easy? No. But I think it can and, frankly, Mr. President, I think it must be done. If our children are to have a future, if we are going to be an economically viable entity in the world markets, if we are going to be competitive, the cost of Government has to be brought under control.

It seems to me that Senator SMITH has brought to us a valid, workable alternative, one that utilizes the good knowledge of the committee to set priorities.

I certainly think the question of the Senator from Arizona as to specifically where he would find the funds is an appropriate question, a fair question.

Members may recall that Senator KERREY and I brought to this floor during the budget consideration a proposal that would have specifically delineated almost $100 billion of cuts over the next 5 years. We named specific programs and specific areas. Frankly, I do not know that the fact that it was specific necessarily helped. The history of this Congress is that we seem to turn down efforts to cut spending or control spending whether they are specific or not.

Is it fair to ask where you would specifically get the money? Yes, absolutely, it is fair. But ultimately we have to wean ourselves from ever-increasing deficits. It seems to me that clearly the amendment of the Senator from New Hampshire does that. The amendment of the Senator from New Hampshire does say at least for 1 year we are not going to increase spending in this area. It is the kind of thing that I think merits approval.

Frankly, I think it is the kind of amendment that I hope he and others offer on other appropriations bills that come before the Senate. We can turn this around, but we can only turn it around if we are willing to back a solid, courageous amendment such as the one that has been brought forward by the Senator from New Hampshire.

I yield the floor, Mr. President.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

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

The PRESIDING OFFICER. Is the Senator from North Carolina attempting to amend the motion to recommit?

Mr. FAIRCLOTH. No.

The PRESIDING OFFICER. The motion to recommit is the pending business. It would take unanimous consent in order to amend it at this time.

Mr. FAIRCLOTH. I withhold for now, Mr. President.

The PRESIDING OFFICER. Who seeks recognition?

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

Mr. DOMENICI. Mr. President, I ask the Senator if he would withhold on that request?

Mr. DECONCINI. I do.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, might I ask the manager, the proponent of the motion to instruct? How much longer do we think we will be before there is something decisive on this amendment?

Mr. SMITH. Mr. President, there is no more debate on this side that I am aware of.

Mr. DECONCINI. The answer to the Senator's question is not more than 3 minutes on this side. We will go to a vote, although we will not have a vote until sometime around 7 p.m. We will put it off, and lay aside the amendment.

ORDER OF PROCEDURE

Mr. DOMENICI. Mr. President, I ask that I be permitted to proceed for 5 minutes as if in morning business.

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

THANKS TO SENATOR DENNIS DECONCINI

Mr. DOMENICI. Mr. President, the manager of this bill on the majority side, Senator DENNIS DECONCINI, comes from the West just like I do. I arrived here 22 years ago. I have a funny sounding name. It also ends in "i" like Senator DECONCINI.

This Senate, for all of its history, had only one Italian-American Senator, John Pastore, a Democrat from Rhode Island, until the Senate was shocked to find that there were actually Italian-American Republicans in the West. But I arrived. I was the first Italian-American Senator to ever serve as a Republican.

It was not too long afterward that our neighboring State—and, actually, we used to be one before we separated and became States and joined the Union. It was not too long thereafter until another arrived from the West. And his name was DENNIS DECONCINI. Frankly, neither he nor I think our names are very similar. But somehow there are many people who think we are one and the same. In fact, we joked

many times about getting each other's mail, and even of people stopping us at various places around the country. And, interestingly enough, as I recall, he helped President Carter, and he voted for the Panama Canal Treaty with a reservation that he posed. I did not. That was a pretty heavy issue out there among conservatives.

Frankly, I was stopped in many places shortly after that, and I was accosted as being one who voted for the Panama Canal Treaty. I wondered what they were talking about. I soon found that in some instances our names were being confused, and it did not all make too much sense. But frankly, I was never embarrassed to be confused with DENNIS DECONCINI. I hope the same is true for him.

In addition, I can remember one time because of certain positions the good Senator from Arizona had taken regarding organized crime that there was kind of a note around, sort of a rumble, that his life had been threatened. I remember joking to him saying, "Is the threat over with? I hope so. So they won't be confusing us." And we had a good laugh about that.

But seriously, I rise tonight to say thanks to my good friend, not because of where our ancestors came from, but because I think he has been a very, very good Senator. Regardless of what has happened and the reason that he has decided not to run, I wanted him to know and the Senate to know that this is one Senator who knows him very, very well because I have worked with him. I had this particular position of the ranking member on this subcommittee for a long time. I can tell you: There is no harder working person around. Second, there is no Senator in this Senate or in modern times that is more concerned about the law enforcement man on the beat. He had more concern for the Border Patrol, the FBI, the DEA, than any Senator here. He did more early on when crime was not the issue of the day than anybody here. And I believe that, as he leaves us, it is time for somebody from this side of the aisle to say that about somebody from that side of the aisle. And I say it very willingly and very openly.

I could go through some things that this small bill—it does not have a lot of jurisdiction that was done on this bill to help the relationship between the United States and Mexico, and a big precursor to NAFTA.

You know, Mr. President, and fellow Senators, it was not a President of the United States, nor any of his Cabinet people, nor his Border Patrol director, any of those, that came to the Congress and said the border between Mexico and America as it pertains to our facilities, border crossings, with jails attendant, with restrooms that are there, with facilities that are there—nobody came forward from the executive branch saying that is a disgrace, a disaster. It really is not befitting the United States to have such deplorable border facilities. It was Senator DECONCINI.

Believe it or not, in a Treasury, Postal bill, the first signs of a master plan for making the border facilities modern between our two great nations came from this little subcommittee under the leadership of that Senator from the State of Arizona; a $357 million program to rebuild facilities that were broken down, that were absolutely disgraces. I had one in my State that essentially, if either OSHA or the Environmental Protection Agency or any regulatory agency for the United States went and looked at it, they would have closed it down.

It was a disaster in terms of how it treated people; the jail facilities. Federal judges would have let people out of there the minute they arrived, if they knew about them. There was nothing at all modern about the scales, the weighing system, and how you stop people and check.

There is a brand spanking new facility there, as there are many places up and down that border which, as I said, are necessary infrastructure precursors to a NAFTA and an increase of trade between our two countries.

So that is one that I choose to mention here tonight because in a very real way it shows a lot of things. It shows he knows the problems of his State, and expands that quickly to the national problem; and, second, he has a great deal of tenacity. I mean, he will not give up. There are some around here who, I am sure, do not like that tenacity because they wish he would have given up from time to time around here. But he did not give up when it came to finding a way to put that kind of program into place and into being, even if it was in an appropriations bill.

I think he remembers that. Let me also say that the battles here on the floor today never seem to disappear. How many internal revenue agents are enough? Revenue forgone has been an issue forever. At least it is finally getting resolved in terms of how does the Post Office handle the charitable kinds of mailings coming in at less than full price and who pays for that.

Congress is never willing to face up to that year after year, sticking this little committee with that problem, as if all of a sudden we can write laws to change that. With his tenacity and hard work, that is mostly solved, with reference to the future of reduced-rate mailings for the Red Cross, Boy Scouts, and the Organization for the Blind, and the like.

So, Mr. President, I do not pass judgment on the amendment before us, but I do pass judgment tonight for myself, personally. And we say thank you, Arizona, for sending Senator DECONCINI. It has been a pleasure to be his colleague and to find many areas where we could work together for our States and our Country.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1995

The Senate continued with the consideration of the bill.

Mr. DECONCINI. Mr. President, I thank my friend from New Mexico, and indeed he is a friend. We have had some laughs about our names being so similar. Along with those laughs, we have had some serious working relationships on this committee and on other things in the Senate. I am grateful for his remarks. What can I say but thank you.

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

Mr. DECONCINI. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The legislative clerk continued to call the roll.

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

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

UNANIMOUS CONSENT AGREEMENT

Mr. DECONCINI. Mr. President, I ask unanimous consent that the pending amendment of the Senator from New Hampshire be set for a vote at 7:15, when there will be a motion to table by the Senator from Arizona, and that no amendments be in order.

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

Mr. DECONCINI. Mr. President, I have talked to the Senator from North Carolina, and the Senator from California has been very patient. I apologize for the delay.

I am prepared to yield to her for 10 minutes as in morning business. I ask unanimous consent that that be the order.

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

The Senator from California, Mrs. BOXER, is recognized.

VIOLENCE AGAINST WOMEN

Mrs. BOXER. Mr. President, I thank the Chair, and I thank the distinguished chairman for giving me this time. I know we are making good progress on the bill before us, but I felt

it important to take the floor for a brief time to talk about a very important issue.

Mr. President, throughout American history, women have changed the course of debate in this country. Rosa Parks refused to sit in the back of the bus, and the Nation's attention was focused to the issue of racial injustice. Anita Hill stepped forward to testify before Congress, and the Nation focused on sexual harassment in the workplace. And now, Mr. President, a terrible event in California, the death of a young mother, brings a tragic issue to the forefront: The brutality and the terror of spousal abuse.

We should not jump to conclusions about who was responsible for Nicole Simpson's murder. But we do know from the Los Angeles Police Department that she was repeatedly beaten by her former husband, once so badly that she had to be hospitalized. As reported in the Los Angeles Times, she was bruised and bloodied and slapped so hard, Mr. President, that a hand print was left on her neck.

What we do know is that the criminal justice system is guilty because it routinely turns its back on this form of brutality and leaves too many women out in the cold.

Mr. President, beating is beating. Blood spilled is blood spilled. Whether it occurs at the hands of a stranger or a family member, there should be no difference in the way it is viewed. It is time for action to prevent violence in the home. The excuse that "This is just a family matter" is no longer acceptable. "I love her so much that I lost myself" are words that must be seen as a cry for help from both spouses in the relationship.

Today, I join President Clinton and several of my colleagues on both sides of the aisle in calling for immediate action on the crime bill, which appears to be stalled in the conference.

Passage of this bill is now more important than ever, Mr. President, not only because of its many provisions to make our streets and our schools safer, but also because it includes the only comprehensive piece of legislation to pass the House and Senate on the issue of violence against women.

Four years ago, Senator JOE BIDEN, the distinguished chairman of the Senate Judiciary Committee, introduced the Violence Against Women Act. I was extremely pleased that he asked me to author the House version at that time, which I did, and I did it every year that I was in the House of Representatives. We have pushed and pushed to make this bill law ever since.

The Violence Against Women Act provides police, prosecutor, and judicial training on dealing with spousal abuse. It funds services to victims, such as shelters for battered women and children.

By the way, Mr. President, we have more shelters in this country for animals than we do for women and children. We need action now. We need prevention programs now.

Two years ago, we were successful in enacting a few provisions into law. As part of the Higher Education Act, we secured funding for rape prevention programs on college campuses. When Congress reauthorized the Family Violence Prevention and Services Act, the only Federal program that provides funding to battered women shelters, we secured more funding for these services, as well as public education campaigns.

But we are still struggling, Mr. President, to enact the majority of this bill. I am proud to see on the floor the chairman of the Judiciary Committee, JOE BIDEN, who has led this fight before anyone knew what the problem was. Well, maybe our colleagues did not feel the sense of urgency then when we began, but it is critical that we act now. We cannot let another year go by. We cannot let another day go by. The Violence Against Women Act must be passed as part of the crime bill. I especially urge my colleagues on the conference to follow Senator BIDEN's lead and vote for the authorization level of $1.8 billion.

That is crucial in our efforts. I said we could not wait another day. Let me correct myself, Mr. President. We cannot wait another minute because every 15 seconds a woman is beaten in America. An estimated 2 to 4 million women are battered by their spouses or partners every year. As many as one-fifth to one-third of all women who visit emergency rooms are victims of spousal abuse. In 1992, approximately 30 percent of all women murdered—nearly 1,400 wives and girlfriends—were slain by their husbands or boyfriends. Let me repeat that, Mr. President—1,400 wives and girlfriends were slain by their husbands or boyfriends.

To all Americans who care about this issue, who want to act now to save the lives of innocent people, please help Senator BIDEN push this crime bill through. Look. We have partisan differences around here. We fight about a lot of things. But this President is right when he says let us move swiftly and in a bipartisan fashion on this crime bill. Every 15 seconds a woman is battered. Mr. President, let us act now.

We saw what happened in California. But it happens every 15 seconds.

I see my distinguished colleague here. If I have any time remaining, I yield it to him, and if I do not, I ask unanimous consent that he be granted 3 or 4 minutes to comment at this time.

The PRESIDING OFFICER. The Senator from California has just under 4 minutes remaining.

Mrs. BOXER. Then I yield the remainder of my time to my friend and colleague and a great leader on this—he deserves all our thanks—Senator BIDEN.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I thank the Senator from California for her generous remarks.

The truth of the matter is, although 5 years ago I wrote this bill—this bill, I might add, did not move until my friend from California came to the U.S. Senate. She was the original sponsor in the House on this legislation. But when she came to the U.S. Senate, all of a sudden I found that my exhortations to my colleagues took on a new dimension. When I stood up and cited the statistics that my friend from California cites, people listened, and we got it passed. But there was not much sense of urgency. But when the distinguished Senator from California came and made the case with the passion and urgency that she does, literally things begin to move.

I am pleased to tell Senator BOXER and my colleagues that in the crime conference so far, the chairman of the conference, Mr. BROOKS, and the President of the United States, through the Attorney General, have agreed to the language that Senator BOXER and I originally introduced 4 years ago, which is that it has all the provisions and full funding.

Now we have not had a vote in the full conference on that yet, but I fully expect that it will survive.

Let me point out that the most important thing it seems to me about the passage of the violence against women's legislation which in a sense has been submerged in the larger crime bill, if this bill all by itself were being debated, it would be one of the major pieces of legislation we would be acting on as a Congress. But because we were able to include it in the overall crime bill at the last minute, in effect, increasing its prospects of passage, it has somehow been lost sight of.

The reason why it is important that it not be lost sight of is because not that it will affect substantively what actually it allocates to the States, actually allocated to fight violence against women, but because the public at large is unaware of what we are doing.

One of the most important things about the violence against women legislation in my view and the reason why I wrote the legislation in the first instance is it is designed not only to substantively change the law but to indirectly change attitudes in America.

To use a trite Washington expression, the bottom line of the violence against women legislation is that no man under any circumstance, for any reason other than self-defense, has a right to touch a woman without her permission, period. No ifs, ands, or buts. This is about power, physical power, and violence against women and particularly domestic violence, which is a misnomer. There is nothing domestic

about it. That makes it sound like domestic cats as opposed to wild cats. The truth is we should drop that phrase.

It is violence, pure and simple, and one of the things we have to do is change attitudes.

Let me just suggest to you one of the States in the Nation in 1987 surveyed all of their seventh, eighth, and ninth grade students and asked the following question, and I am paraphrasing: If a man spends $10 on a woman on a date and then demands to have sex with her and she refuses, is he entitled to use force?

Somewhere around 34 percent of the young men in this State said yes, and an astounding 24 percent of the young women said yes.

We must change attitudes about what a man can do. We have to drop phrases like "my woman." The idea that any man has a right to touch a woman, whether she is a saint or a prostitute, is not relevant. No man has a right to lay a hand on a woman in anger without her permission—and that is an oxymoron. If she is angry, she is not going to be giving permission. That is the attitude we have to change.

My hope is when we pass this legislation, it will not only substantively make things safer for women, increasing everything from battered women shelters, to lighting, to education of prosecutors and judges, but it also will give women, in addition to the criminal cause of action, for the first time in our history, a civil cause of action.

So not only will the man go to jail if the woman can prove she was a victim of violence because of her sex, she can take his car, his house, his savings account. She can be empowered not to have to wait for the State to decide whether to proceed. She can proceed. And until women are empowered that way, things will not change.

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

Mrs. BOXER. I thank the Senator.

Mr. BIDEN. I thank the Chair.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1995

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 1825

Mr. FAIRCLOTH. Mr. President, I ask that the amendment that I previously sent to the desk be read, please, and I ask for its immediate consideration.

The PRESIDING OFFICER. If there is no objection, the motion to recommit is set aside and the clerk will report.

The bill clerk read as follows:

The Senator from North Carolina [Mr. FAIRCLOTH] proposes an amendment numbered 1825.

The amendment is as follows:

At the appropriate place in the bill add the following: "Notwithstanding any provision of law, the President must certify to Congress, annually, that no person or person with direct or indirect responsibility for administering the Executive Office of the President's Drug-Free Workplace Plan are themselves subject to the program of individual random drug testing."

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, when a person goes to work at the White House they are supposed to be given a drug test. Additionally, 12 percent of employees who are in what are called testing designated positions are supposed to be randomly given drug tests every year.

But, Mr. President, there is yet another category of people who are given drug tests. These are people who the Secret Service has determined have a recent and/or extensive history of drug use. They are subject to what is called the individual random drug testing program.

These are not people who experimented with marijuana in college years ago, even those who did not inhale. They are people who have a history of serious narcotics abuse.

In testimony before the House, we have learned that there are 10 or 11 people in the White House who are in this category; 10 or 11 are in this category that I am talking about that have serious problems with drugs.

Again, not people who experimented with drugs 15 or 20 years ago, but rather, 10 or 11 people who the Secret Service and the White House legal counsel's office have apparently determined need to be tested frequently because of recent and/or significant narcotics abuse.

Mr. President, this amendment is straight forward and direct. It simply says that the President must certify to Congress that the people who are in charge of the White House drug testing program do not, themselves, have a recent and/or extensive history of drug use.

It just makes common sense that someone with a history of drug problems should not be involved in administering drug testing programs.

While it should go without saying that a drug addict should not be in charge of the drug testing program, it should be noted that the White House Drug Testing Program is administered by the Office of Administration. The Office of Administration is run by a woman named Patsy Thomasson. And Patsy Thomasson is the former right hand woman to a man named Dan Lasater.

Dan Lasater is a convicted cocaine dealer who gave President Clinton's half-brother Roger a job, and was later pardoned by Bill Clinton. Dan Lasater held fundraising parties for Bill Clinton, flew the Clintons around in his jet, and paid off Roger Clinton's drug debts.

Federal and State law enforcement documents describe widespread cocaine use among Lasater, his employees, his business associates, and his friends. Those same law enforcement documents describe parties at which vials of cocaine were distributed as party favors. Ashtrays filled with cocaine were spread among the hors d'oeuvres, and cocaine was served on the Lasater corporate jets.

After Bill was reelected to the Governor's mansion in 1982, Lasater's bond firm made millions of dollars in underwriting State of Arkansas bonds. His firm even made $750,000 by underwriting bonds for a new State Police radio network. This was despite the fact that Lasater had told an investigator sent by Bill Clinton's Director of the Arkansas State Police that he was a cocaine user.

Dan Lasater's chief financial officer in this operation was Patsy Thomasson, the woman who now has oversight over the White House drug testing program.

Six months after he was awarded the State Police radio bond contract, Dan Lasater formally became the target of a joint State-Federal drug task force investigating cocaine distribution in Little Rock. FBI documents show that he later confessed to using cocaine, and to giving it away to friends, employees and business associates on more than 180 occasions.

In October 1986, Dan Lasater was indicted for possessing and distributing cocaine. The U.S. attorney said that Lasater and his associates were blatant in their drug use. Lasater maintained a supply of cocaine in his pockets, and even snorted it at his office.

He pled guilty, and as part of his plea he agreed to make detailed statements about his cocaine use. He also agreed to identify the people he gave cocaine to during parties, during business meetings, and as part of his business entertainment. When Dan Lasater went to jail for cocaine trafficking he gave his power of attorney—his power of attorney—to Patsy Thomasson, the lady now in charge of White House administration and the Drug Testing Program.

A power of attorney is one of the most powerful legal documents that exists. Patsy Thomasson had complete control over Dan Lasater's affairs while he was serving his prison time for cocaine trafficking. In business and other legal matters, Patsy Thomasson and the cocaine kingpin Dan Lasater were one and the same.

In his application to Bill Clinton for a pardon, Dan Lasater excused his criminal behavior, saying that the cocaine was used in social situations. He compared it to—and I quote—"paying for dinner and drinks for my friends." A strange way to do business.

Mr. President, there are many people in high places in the White House who

associated with Dan Lasater. In light of the fact, the U.S. Senate should have the FBI list of the 180 occasions that documented Dan Lasater's cocaine use, and the people that he supplied it to—and we should have it immediately, if not sooner.

But until it gets that FBI cocaine list, Congress should—at a very minimum—demand that the President certify that the people in charge of the White House drug testing program do not themselves have a history of recent or extensive drug abuse.

Patsy Thomasson, the righthand woman of the man who admits to snorting cocaine with friends and business associates, and who was the person who had that cocaine distributor's power of attorney while he was in prison, now is in charge of the White House drug testing program!

Mr. President that is wrong. We do not know if anyone in the White House were at any of Dan Lasater's cocaine parties. But it is wrong to have a business partner and confidant of a drug dealer in charge of the White House drug testing program.

Patsy Thomasson refuses to disclose to Congress whether the people monitoring the White House drug testing program—including herself—are among the specially tested group of people with histories of serious drug abuse.

At the bare minimum, the President should have to certify that no one with responsibility for that drug testing program has a history of recent or extensive drug use themselves.

Mr. President, Congress should see to it that drug addicts are not in charge of the White House drug testing program. That is what this amendment will do.

Mr. President, on this amendment, I ask for the yeas and nays at the appropriate time.

Mr. President, I yield the floor.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER (Mrs. BOXER). The Senator from South Dakota.

Mr. PRESSLER. Madam President ask unanimous consent to speak for 2 minutes, as if in morning business.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

NORTH KOREA AND CHINA

Mr. PRESSLER. Mr. President, Japan, South Korea, Taiwan, and other friends of the United States in East Asia are not pursuing nuclear weapons programs. This is not an accident. It represents almost 50 years of successful diplomacy by Democrat and Republican administrations.

That success is at risk in the current North Korea nuclear weapons crisis. If the North Koreans can stare down the Clinton administration, it will be very difficult to persuade the rest of East Asia not to look after its own security interests.

Mr. President, it is not in anyone's interest for there to be a nuclear arms race either on the Korean peninsula or in the rest of East Asia. Therefore, recent events in Beijing can only be described as puzzling.

From June 6 to June 13 the North Korean Chief of Staff met with almost the entire top military leadership in China: The Chairman and both Vice Chairmen of the Central Military Commission, the Defense Minister, the Chief of Staff and Deputy Chief of Staff of the Chinese Army, the political commissars of the Air Force and Navy, the commandant and deputy commandant of China's leading armor school, the Deputy Commander of Beijing Military Region, and other military officials. Finally, the North Koreans toured the sixth artillery division, one of the units around Beijing. By my count this includes all the Chinese military services and all the combat branches of the services. A number of the Chinese individuals in the meetings with their North Korean counterparts were veterans of the Korean war.

We only know snippets of what they discussed but it is very hard to avoid the conclusion that this was a war council. The Chairman of the Chinese Central Military Commission was quoted in the official Chinese press as declaring that China and North Korea are as close as "lips and teeth." The Chinese Defense Minister referred to the United States as "imperialist aggressors" for our actions in defense of South Korea in 1950. If South Korea's largest newspaper is accurate, the Chinese pledged 85,000 troops to the aid of North Korea in the event of war.

Mr. President, today I have written to the Chinese Ambassador bringing to his attention my concern over these meetings and statements. It is time for the Chinese Government to make a positive contribution to resolving the North Korean nuclear issue. Their actions of 2 weeks ago were a big step backward.

Mr. President, I ask unanimous consent that my letter to the Chinese Ambassador and certain publications on this subject from Chinese, North Korean and South Korean newspapers and radio outlets be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, June 21, 1994.

His Excellency LI DAOYU,
The Ambassador of China,
Washington, DC.

DEAR MR. AMBASSADOR: Since the end of World War II the United States has exercised its leadership to ensure that those countries in East Asia which are allied with us have not developed nuclear weapons. This accomplishment has not occurred by accident but rather after considerable effort and some diplomatic cost.

We have now come to a critical juncture with North Korea. It is not in anyone's interest for North Korea to maintain its nuclear weapons program. As North Korea's long time ally, China is obliged to take the lead in convincing the North Korean leadership of the absolute necessity that its nuclear weapons ambitions must be abandoned.

Therefore, the discussion in Beijing from June 6 to June 13 between the highest military leadership in China and their North Korean counterparts raise serious questions of China's intentions. President Jiang Zemin's declaration of solidarity with North Korea, using a phrase associated with wartime allegiance, only raises additional questions. Finally, we wonder what to make of the report of China's pledge of 85,000 troops to the aid of North Korea in time of war. At a time when China should be pressing North Korea to adopt a peaceful stance, these statements and meetings seem to suggest other objectives.

Considering North Korea's history of aggression and state terrorism, the United States will not allow it to develop nuclear weapons without challenge. If those who have influence and leverage with the North Korean leadership choose to avoid their responsibilities, the United States will need to reevaluate its strategy for maintaining peace in the region.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

MILITARY DELEGATION RETURNS FROM PRC

PYONGYANG, JUNE 14 (KCNA).—The DPRK military delegation headed by Choe Kwang, Politburo member of the Central Committee of the Workers' Party of Korea, vice-chairman of the National Defence Commission of the DPRK and chief of the general staff of the Korean People's Army, returned home Monday after visiting China.

That day *Liu Huaqing*, member of the standing committee of the Political Bureau of the Central Committee of the Communist Party of China and vice-chairman of the Central Military Commission, met the Korean military delegation.

Liu Huaqing said that China and the DPRK are the closest neighbours whose mountains adjoin each other and which have common rivers and the friendly relations between the two countries with a historical tradition have reached a higher phase and been consolidated today.

"The people of China treasure Sino-Korean friendship," Liu said, "and will pass it on from generation to generation."

JIANG ZEMIN RECEIVES DPRK MILITARY DELEGATION

PRC President Jiang Zemin said in Beijing on 7 June that strengthening and developing PRC–DPRK friendship is the unwavering policy of the CPC and the PRC Government, as well as the desire of the whole party and all the people.

During a meeting with a DPRK military delegation led by Vice Marshal Choe Kwang, chief of general staff of the Korea People's Army, President Jiang Zemin said that the PRC and the DPRK are friendly neighbors and the two parties, two countries, and two Armies have a tradition of a friendly relationship, and that it is of great significance in the past, and at present as well, to further develop such relations.

He said that the Chinese party and Government are satisfied with the development of the relations between the two parties and two nations and will continue to make efforts to develop the relations.

Chief of General Staff Choe Kwang expressed his gratitude to President Jian Zemin for meeting the delegation and said that it is an invariable stance of the Workers' Party of Korea to develop the DPRK-PRC friendship for generations.

PRC MILITARY HEAD MEETS DPRK MILITARY DELEGATION

Colonel General Liu Huaqing, member of the Standing Committee of the Political Bureau of the CPC Central Committee and vice chairman of the Central Military Commission, emphasized in Beijing on the morning of 13 June that the ultimate goal for resolving the nuclear issue on the Korean peninsula is realizing the denuclearization of the Korean peninsula and peace and security on it. He said that China's position is that the nuclear issue should be resolved peacefully through dialogue among the parties concerned.

Colonel General Liu Huaqing said this at the meeting with a DPRK military delegation led by Vice Marshal Choe Kwang, member of the Political Bureau of the Central Committee of the Workers' Party of Korea and chief of the General Staff of the Korean People's Army, at the Diaoyutai, the State Guest House.

Stating that close friendly relations have been cemented between the two countries and peoples of China and the DPRK, Colonel General Liu Huaqing said that friendly relations between China and the DPRK are very precious ones that should be inherited for all generations to come.

Vice Marshal Choe Kwang said that promoting friendly relations between the DPRK and China corresponds with the desire of the two countries' peoples and that the DPRK highly evaluates China's efforts to develop bilateral friendly relations. He said that he believes that the bilateral friendly relations would further develop and be consolidated.

During the meeting, the military leaders of the two countries share the view on activating the military exchange between the two countries.

The Korean military delegation arrived in China on 6 June and, during its stay, visited Beijing, Hangzhou, and Shanghai.

DPRK MILITARY DELEGATES' PRC VISIT REPORTED

The DPRK military delegation led by Comrade Choe Kwang, member of the Political Bureau of the Workers Party of Korea Central Committee, vice chairman of the DPRK National Defense Commission, and chief of the General Staff of the Korean People's Army [KPA], which is visiting China, inspected the Armored Force Engineering Academy of the Chinese People's Liberation Army [PLA] on 6 June. Commandant of the academy Major General Cai Kangsheng, Vice Commandant Major General (Sun Jiangrong), and other functionaries concerned, welcomed the delegation.

The head of the delegation inspected the honor guard with Cao Gangchuan, deputy chief of General Staff, and the commandant of the academy. The delegation looked over the tanks and armored cars receiving training at the academy, and an exhibition hall that exhibited technological achievements.

On 7 June, the delegation inspected the sixth artillery division of the Beijing military region.

On 6 June, Zhang Wannian, chief of the General Staff of the PLA, arranged a banquet for the delegation. Members of the DPRK military delegation led by Choe Kwang, the chief of the General Staff; the DPRK ambassador to China; and the embassy military attache were invited. Cao Gangchuan, deputy chief of the General Staff of the PLA; the political commissar of the Navy Department; the political commissar of the Air Force Department; the deputy commander of the Beijing military region; and other functionaries concerned were on hand.

Speeches were exchanged at the banquet. In his speech, Zhang Wannian, chief of the General Staff, said that the Armies of the two countries of China and the DPRK have a long tradition of friendly relations. He emphasized that the friendship concluded between the people and Armies of the two countries through blood ties is invincible. He stated that the heroic and diligent Korean people and the People's Army achieved great results in socialist construction and national defense building under the leadership of the Comrade President Kim Il-song, the great leader of the Korean people and close friend of the Chinese people, and the respected Comrade Kim Chong-il. He also said that the Chinese people and Army are happy about those results as though they were their own.

He said that he hopes that the Korean people and the People's Army achieve greater results in the future under the leadership of the respected Comrade President Kim Il-song and Comrade Kim Chong-il, the supreme commander of the KPA.

On 7 June, the delegation met with the Chinese National Defense Minister Chi Haotian. During the meeting, the defense minister said that the people and Armies of the two countries fought shoulder to shoulder during the anti-Japanese war period opposing the Japanese imperialist aggressors, and that during the fatherland liberation war, they shed blood and fought together in one dugout against the U.S. imperialist aggressors. He emphasized that the friendship between the two countries was truly bonded by blood. He said that since the people and Armies of the two countries shared joys and sorrows on the road of revolutionary struggle, they were one in mind. He stated that China is happy with the results being achieved by the Korean people and the People's Army in socialist construction and in strengthening national defense, as though the results were their own.

Next, the defense minister arranged a dinner for the delegation. Participants of the banquet and dinner made a toast for the long life of the great leader Comrade Kim Il-song, for the long life of the dear leader Comrade Kim Chong-il, and for the long life of the Chinese party and state leaders including the respected Comrades Deng Xiaoping and Jiang Zemin.

DAILY REPORTS PRC TO SEND 85,000 TROOPS IF WAR BREAKS OUT

Western diplomatic sources in Hong Kong said on 11 June that China promised to send a ground army of approximately 85,000 troops to North Korea if a war breaks out on the Korean peninsula and, also, to provide credit assistance—such as food and energy—to the latter if UN economic sanctions are effected.

The sources said: Such an agreement between China and North Korea was discussed between the key leaders of the North Korean party and government, who visited China in early June, and the relevant high-level officials of the Chinese party and Army. As a result, a final agreement was reached during the visit by Choe Kwang, chief of the General Staff of the North Korean Army, to China on 7 June.

Prior to these remarks, a military source in Hong Kong once said that according to the China-North Korea Friendly Treaty signed in 1961, China has formulated plans to support North Korea by sending ground troops between 50,000 and 75,000 soldiers—who belong to the three divisions of the 39th Shenyang Military District Army stationed in Dalian—as well as approximately 10,000 rapid deployment troops [sinsok paechigun] of the Jinan Military District to the latter. The source said, however, that China will send its troops to North Korea only if North Korea is cornered as a result of an invasion by the United States and South Korea, and that if North Korea invades South Korea, China will not directly provide military support to North Korea, except for spare parts or ammunition for the Chinese-made weapons North Korea currently possesses.

The sources said: Prior to the China visit by Choe Kwang, chief of the General Staff of the North Korean Army, North Korea had sent over 10 high-level leaders from each ministry—such as the Workers Party of Korea, the Army, the Ministry of People's Armed Forces, the Ministry of Public Security, the Ministry of Foreign Affairs, and the Ministry of Metal Industry—to Beijing to discuss the issues—such as China's participation in a war if it breaks out on the Korean peninsula, as well as its economic support for North Korea if the United Nations imposes economic sanctions on North Korea—with the relevant Chinese authorities, including leaders of the Communist Party of China and its People's Liberation Army. In return for China's support for North Korea, North Korea has proposed that it will grant China the right to use the ports in the East Sea areas, and that it will provide materials such as nonferrous metals and cement to China.

They also said: Kim Kyong-hui, younger sister of Kim Chong-il, a director of the Light Industrial Department of the Workers Party of Korea, visited Beijing in late May to hold working-level meetings with the Chinese side in order to discuss its economic support for North Korea. She is expected to return home around 13 June.

MEET WITH JIANG ZEMIN 7 JUNE

Comrade Jiang Zemin, general secretary of the Communist Party of China Central Committee, president of the state, and president of the Central Military Commission, on 7 June received a military delegation of our country led by Comrade Choe Kwang, member of the Political Bureau of the Workers Party of Korea Central Committee, vice chairman of the DPRK National Defense Commission, and chief of the General Staff of the Korean People's Army.

At the talks, the head of the delegation conveyed greetings from the great leader Comrade Kim Il-song and the dear leader Comrade Kim Chong-il to Comrade Jiang Zemin.

Expressing deep thanks for this, Comrade Jiang Zemin asked the head of the delegation to convey his warm greetings to the great leader Comrade Kim Il-song and dear leader Comrade Kim Chong-il.

Comrade Jiang Zemin stressed that PRC-DPRK friendship was personally provided, strengthened, and developed by Comrade Kim Il-song, the respected leader of the Korean people, together with revolutionaries of old generations including President Mao Zedong and Premier Zhou Enlai of the Chinese people. He said that this friendship is forged with blood.

Stating that the two nations of the PRC and DPRK are amicable neighbors with lips-and-teeth relations, Comrade Jiang Zemin

pointed out that the two parties, two nations, and two armies have a traditional friendship.

He emphasized that it is of great significance in the past and at the present time as well to strengthen and develop such a friendship, and that the Chinese party and government attach great significance to developing friendly relations with DPRK. He said that he is satisfied with the fact that relations between the two parties and two nations are developing.

He noted that it is a firm policy of the Chinese party and government and is the desire of the whole party and all the people to strengthen and develop PRC–DPRK friendship, and stressed that they will make efforts for this.

Present at the talks were Zhang Wannian, chief of the General Staff of the Chinese People's Liberation Army; Cao Gangchuan, deputy chief of General Staff; the ambassador of our country to the PRC; and the military attache in the Embassy.

"STRENGTHENING" OF TIES VIEWED

BEIJING, June 7 [date as received] (KCNA).—"Strengthening and developing Sino-Korean friendship are the firm policy of our party and government as well as the desire of our whole party and people, and we will make efforts to this end," declared Jiang Zemin, general secretary of the Central Committee [C.C.] of the Communist Party of China, president of the republic and chairman of the Central Military Commission.

He said this when he met Tuesday the visiting military delegation of the Democratic People's Republic of Korea led by Choe Kwang, member of the Political Bureau of the C.C., the Workers' Party of Korea, vice-chairman of the National Defence Committee of the DPRK and chief of the Official Staff of the Korean People's Army.

Jiang Zemin said friendship between China and the DPRK is one provided, consolidated and developed by the respected leader of the Korean people Comrade Kim Il-song together with Chairman Mao Zedong, Premier Zhou Enlai and other revolutionary veterans of the Chinese people and forged in blood.

Noting that the two countries are friendly neighbours in the lips-and-teeth relationship, he said the two parties, two countries and two armies have traditional relations of friendship.

He stressed that further strengthening and developing such relations—past or present—is always of great significance.

"The Chinese party and government regard their friendly relations with the DPRK important, and are satisfied with the development of the relations between the two parties and two countries," he added.

Mr. PRESSLER. Madam President, it is outrageous that the Chinese and North Koreans are holding these meetings at this time. It is amazing we do not hear more about it. Our President should speak publicly about this.

Madam President, it is not in anyone's interest for there to be a nuclear arms race either in the Korean Peninsula or in the rest of Asia. Therefore, recent events in Beijing can only be described as puzzling. All this time it seems the United States has been trying to get North Korea to back down. Yet, all the while, North Korea and China have been meeting on a military level. These nations' top military people are meeting, and nobody is saying anything about it.

As a result, I have sent a letter to President Clinton citing the discussions in Beijing from June 6 to June 13 between the highest military leadership in China and their North Korean counterparts. I have spoken many times on this floor about the Chinese nuclear buildup and military buildup. In the next 10 years, our main military antagonist will be China. Japan will not stand still. Eventually, they, too, will try to get the bomb. North Korea and China are working hand in hand, yet nobody will acknowledge this.

Finally, we wonder what to make of the report of China's pledge of 85,000 troops to the aid of North Korea in time of war. At a time when China should be pressing North Korea to adopt a peaceful stance, these statements and meetings seem to suggest other objectives. I go on:

Considering North Korea's history of aggression and state terrorism, the United States should not allow it to develop nuclear weapons without challenge. If those who have influence and leverage with the North Korean leadership choose to avoid their responsibilities, the United States will need to reevaluate its strategy for maintaining peace in the region.

So we are at a critical juncture with North Korea. At that very moment we find their top military people spending a week with the Chinese top military figures. It is not in anyone's interest for North Korea to maintain its nuclear weapons program. As North Korea's longtime ally, China is obliged to take the lead in convincing the North Korean leadership of the absolute necessity that its nuclear weapons ambitions must be abandoned.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1995

The Senate continued with the consideration of the bill.

Mr. DECONCINI. Madam President, I ask unanimous consent the vote scheduled for 7:15 be scheduled for 7:25.

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

Mr. DECONCINI. Madam President, the amendment pending, the amendment from the Senator from North Carolina, has some merit. But I must say I am very disappointed to see the personal attack on the assistant to the President who is the administrator of the Office for Management and Administration.

Before I comment on that, let me say the White House is very cognizant of the importance of a drug-free workplace. And, indeed, they have taken steps to ensure that is the case. As a matter of fact, it has been prior administrations that have taken that step, and there have been assistants to the Presidents in past administrations and one in this case who was tested, it was positive, and they have been dismissed. So, no one is trying to exempt themselves from the drug testing.

The Executive Office of the President has had a drug-free workplace since July of 1988, and this administration adopted that and actually enhanced it. The drug-free workplace is administered by the Office of Administration, Personnel Management Division, which is headed and staffed by a career civil servant. We are not talking about a political appointee. This is not Patsy Thomasson who runs this drug testing program.

Any individual being placed in a testing designated position is tested under the applicant's testing provisions of the program. Here in this White House they have adopted a drug testing for employees—it is currently a mandatory procedure. Everybody employed at the White House, the Office of Policy Development, the Office of Administration, the National Security Council, Council of Economic Advisers, the Office of the Vice President, Council of Economic Quality, Executive Residence, Office of the National Drug Control Policy, the Office of Science and Technology—all of these people are under a mandatory drug testing program. And it is 12 percent, or approximately 117 employees, of the Executive Office of the President who undergo this mandatory annual drug test every year.

That means their names are not picked by Patsy Thomasson or by Mr. McLarty or some political person down there. They are picked randomly from the 1,057 employees. As they come up they are tested. No excuse. Not, "OK, 2 days"; or "I just do not feel like doing it now"—they are tested. It is conducted by an independent contractor, somebody who is totally dismissed and divorced, not part of the White House politically or professionally. They are independent contractors who conduct the test for the White House to ensure quality control.

Testing 12 percent is above, I am told, what the normal drug-free workplace standard is.

Let me get to the heart of this amendment that ought not to be here, in all due respect to the distinguished Senator from North Carolina. There is no evidence that I know of that Patsy Thomasson has been involved in any drug action or participation in any way herself. I am advised she has gone before the grand jury in the State of Arkansas, that there has been no evidence whatsoever to link her in this. It is to me a disgrace that the accusations are made here regarding this young lady. She is a hard-working person who is trying to do the best she can. It is a tough job, administering 1,057 people, many of them political appointees, who have certain relationships with the President or the Chief of

Staff and do not have to listen to her, and she has almost a thankless job.

For Senators to stand up here and read newspaper clippings and make accusations that Patsy Thomasson is somewhat involved in drugs and that she is responsible for the problems down at the White House is unfair. Believe me, I have worked with this woman. And when there was a security problem down there, she said, "Yes, what can you do to help me, Senator?"

When I called I said, "I want to help." And we, from the Intelligence Committee, offered to send down our director of security and, if I may Madam President, the Intelligence Committee has a security system that is widely respected throughout the intelligence community. And we have had an excellent record. And the White House took us up on it. Mr. James Wolfe went down there and spent several days with White House officials reviewing their security procedures, including the drug testing.

And there is no evidence that Ms. Thomasson has been involved with administering this drug test. She just said, "It will be a policy," as it always had been. It is a policy today.

So, though this amendment has merit because I find nothing objectionable relating to the responsibility of the executive office, I find it very objectionable and disgraceful, in my opinion, to see attacks on someone who is an administrator at the White House who I think has a proven ability. If somebody wants to look back and say, oh, well, she had a friend once who was indicted or who did something wrong, was accused of something—well, as the Bible said, who is going to throw the first stone in this body? Who has been in politics who has not had some friend or somebody who has gotten in trouble that they had nothing to do with?

So I am extremely disappointed that an amendment that has some merit cannot be set before the Senate without making a personal attack on somebody's reputation. Believe me, I have a little experience with that.

It is absolutely enough to make you regurgitate.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Madam President, I was not planning to speak, but on the TV monitor, I listened to the Senator from North Carolina.

Let me just briefly state that we have just seen a case of the Senator from North Carolina assassinate the character of a fine lady, a fine woman, a fine person who works in the White House.

Patsy Thomasson, during the trial and the grand jury proceedings of Dan Lasater, to the best of my knowledge, testified at length before the grand jury, and in her testimony, to the best of my knowledge, stated that she had never used cocaine in her life. The Senator from North Carolina, a few moments ago, stated on the floor of the U.S. Senate that Patsy Thomasson had, in fact, admitted to the use of cocaine.

Madam President, I think the Senator from North Carolina owes this individual and the U.S. Senate an apology.

I yield the floor.

Madam 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.

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

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

Ms. MIKULSKI. Madam President, I would like to draw attention of my colleagues to the fact that this will be the last Treasury, Postal Service bill that our very dear colleague, Senator DENNIS DECONCINI, will be moving through the U.S. Senate. He, of course, will bring back an excellent conference so that we will be able to vote on that.

But I wish as a member of the Appropriations Committee and a member of the Subcommittee on Treasury, Postal Service to pay my respects to Senator DECONCINI and the outstanding job he has done, both in the Senate and with this particular subcommittee. This is a very complicated subcommittee. It deals with Federal law enforcement, other than what is at the Justice Department.

He tried to make sure that there was enough money for the new cops, for the Bureau of Alcohol, Tobacco and Firearms, those wonderful, gallant men and women who are trying to protect us from too many guns on the streets.

He has been an advocate of adequate funding for the Internal Revenue Service, not only to collect enough taxes to balance the budget, but go after the waste, to go after the fraud, to go after the bums and to go after the deadbeats who just will not pay their taxes. And DENNIS DECONCINI was in the forefront of making sure it was adequately funded.

Every single agency at the Department of Treasury has come under this man's appropriations. He has stood firm in terms of fiscal responsibility and yet he has seen a direction for the future and placed money in law enforcement, in those Federal agencies important to the Treasury. He has tried to get the mail delivered on time. I hope one day he is a stamp himself.

So as a Member of the United States, and I know he is in active negotiations, I would like to say that Senator DECONCINI is really one of the great guys in the Senate, and I say that because I have worked with him, I have served with him, and I have learned from him.

Madam President, Senator DECONCINI on Appropriations will be sorely missed.

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

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. Will the Senator withhold her call for a quorum call?

Ms. MIKULSKI. I withhold.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is seeking recognition.

Mr. BOND. Madam President, I ask unanimous consent that the Senator from North Carolina may be permitted to speak for 1½ minutes. I believe some questions were raised about what he said, and he wished to clarify them before we go to a vote. I know many of our colleagues have other commitments and want to go to a vote. But I ask unanimous consent that he be given 1 minute.

The PRESIDING OFFICER. Is there objection?

Mr. PRYOR. Reserving the right to object.

If the Senator from North Carolina is given a minute and a half, I ask a minute and a half to be given to the Senator from Arizona to respond or to the Senator from Arkansas.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. I object.

The PRESIDING OFFICER. Objection is heard.

The PRESIDING OFFICER. Under the previous order, the question recurs on the motion to recommit offered by the Senator from New Hampshire [Mr. SMITH].

Mr. DECONCINI. Madam President, I move to table the motion by the Senator from New Hampshire——

Mr. DOMENICI. Will the Senator withhold?

Mr. DECONCINI. And I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. DECONCINI. I withhold that.

The PRESIDING OFFICER. The Senator withholds and yields to the Senator from New Mexico.

Mr. DECONCINI. For parliamentary inquiry.

I make a parliamentary inquiry. Does the Senator think it is appropriate if a Senator wants to explain and say he did not say what a Senator has accused him of saying that he should not be given permission to do that for 1½ minutes?

I yield the floor.

The PRESIDING OFFICER. Is the question addressed to the Senator from North Dakota who objected?

Mr. DOMENICI. The question has been propounded, and I do not expect an answer.

The PRESIDING OFFICER. The Senator does not expect an answer.

MOTION TO RECOMMIT H.R. 4539

Mr. DECONCINI. Madam President, I move to table the motion of the Senator from New Hampshire 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. The question occurs on agreeing to the motion to table the motion to recommit the bill offered by the Senator from New Hampshire.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] is necessarily absent.

I further announce that the Senator from Connecticut [Mr. DODD] is absent due to illness in the family.

I also announce that the Senator from Nevada [Mr. REID] is absent attending a funeral.

Mr. DOLE. I announce that the Senator from Montana [Mr. BURNS], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. SIMPSON] would vote "nay."

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

The result was announced—yeas 56, nays 38, as follows:

[Rollcall Vote No. 156 Leg.]

YEAS—56

Akaka	Feinstein	Metzenbaum
Biden	Ford	Mikulski
Bingaman	Glenn	Mitchell
Bond	Gorton	Moseley-Braun
Boren	Graham	Moynihan
Boxer	Hatfield	Murray
Breaux	Hollings	Nunn
Bumpers	Inouye	Pell
Byrd	Jeffords	Pryor
Campbell	Johnston	Riegle
Cochran	Kennedy	Robb
Cohen	Kerrey	Rockefeller
Conrad	Kerry	Sarbanes
D'Amato	Lautenberg	Sasser
Daschle	Leahy	Simon
DeConcini	Levin	Specter
Domenici	Lieberman	Stevens
Dorgan	Lugar	Wellstone
Exon	Mathews	

NAYS—38

Baucus	Gramm	McConnell
Bennett	Grassley	Murkowski
Bradley	Gregg	Nickles
Brown	Hatch	Packwood
Bryan	Heflin	Pressler
Chafee	Helms	Roth
Coats	Hutchison	Shelby
Coverdell	Kassebaum	Smith
Craig	Kempthorne	Thurmond
Danforth	Kohl	Wallop
Dole	Lott	Warner
Faircloth	Mack	Wofford
Feingold	McCain	

NOT VOTING—6

Burns	Durenberger	Reid
Dodd	Harkin	Simpson

So the motion was agreed to.

Mr. DECONCINI. Madam President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

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

The motion to lay on the table was agreed to.

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

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

DEPARTMENT OF ENERGY

Mr. THURMOND. Madam President, the Senate will soon begin debate on the 1995 Defense authorization bill. At that time I plan to speak at some length on the President's budget and the recommendations of the Armed Services Committee. Today, however, I want to address a topic to which I believe the Senate must devote special attention. That is the woeful state of our nuclear weapons posture.

The measure of our nuclear posture is not merely the number of weapons we have; it is also our capability to maintain our nuclear weapons over the years, no matter what. That, Madam President, is in terrible shape. This administration has put us on a course of unilateral nuclear disarmament. This administration has explicitly, formally planned that, starting in 2010 or so, we run out of all tritium reserves. Without tritium, our nuclear weapons will not work, so we will begin in 2010, or so, to lose nuclear weapons at a rate of hundreds per year. Madam President, nothing can be done to stop this unless this administration changes direction and builds an assured supply of tritium. It is as simple as that.

Who would ever have thought that our nuclear weapons posture would come to this? For 50 years now we have had a bipartisan national security policy in those areas where the very survival of the United States was at issue. Ten administrations agreed that nuclear deterrence would be the central core of our defense policy.

Now I am afraid we may be seeing that unanimity of policy in the face of nuclear danger begin to slip away. I hope I am wrong, because the world is more dangerous, not less; there are more nuclear foes, not less; the United States is more vulnerable, not less. But in certain decisions the administration is apparently now taking, I see the end of the object of our bipartisan agreement.

Madam President, let me give some examples of how this administration is putting us on the road to a covert nuclear phaseout. First, it is no secret that the Secretary of Energy has surrounded herself with a small number of advisers, perhaps four or five, who appear to be the architects of nuclear policy in DOE. What is alarming to me is that three of them have spent most of their professional lives as antinuclear activists. What is alarming is that U.S. national security will be impacted for decades by decisions made in 1994 by professional antinuclear activist veterans of ban-the-bomb campaigns, who have fought the national nuclear weapons program for years, in the press and in the courts. None of these advisors have had any experience in what it takes to maintain our nuclear weapon complex; what is alarming is that this administration does seem to not care.

Second, look what they are doing to the nuclear weapon complex. All the plants are closed permanently. The knowledge of skilled craftsmen is gone. Capabilities are dissipated. It is true that we have no need to produce nuclear weapons now. But DOE is making sure we never can again. We had a plan to reconfigure, reduce, and modernize, to build a modest but modern capacity that would last. But even that was too much for this antinuclear crowd at DOE. They canceled that reconfiguration program. They abolished the office. Madam President, no other nuclear nation is doing this. The French are maintaining their complex at top form. The British have kept their manufacturing facilities in commission. The Russians, in all their misery, have not abandoned nuclear weapons plants. The Chinese are building at the same pace they always have. Madam President, is there some secret that Mrs. O'Leary's advisors know, something that has escaped the rest of us; some secret that says it is wise and right for us, alone of nuclear powers, to dismantle our nuclear complex and put ourselves on the road to the ultimate nuclear free zone: an America without nuclear weapons?

Third, DOE is planning, yes, planning that we have a tritium shortage. In a letter dated June 10, Secretary O'Leary says "the United States has sufficient tritium in its inventory to meet projected requirements, including a reserve, until 2009." But she goes on to say that if a new production reactor is begun in 1996, it will be 2011 before it produces tritium. Already, DOE plans that we eat into our critical reserve, something we have never done before. This is just to maintain the START II stockpile. Madam President what if something goes wrong; what if the Russians change their mind on dismantlement? What options do we have? Here is DOE's answer; it is so pathetic that I hesitate to describe it to the Senate, but here it is: either restart a reactor built in 1954, or commandeer a commercial nuclear power plant, or buy tritium from the Russians. These are

not serious options. These will never happen. Mrs. O'Leary knows they will never happen. Madam President, if anything goes wrong, DOE has seen to it that we have no acceptable options.

Fourth, DOE has left us awash in plutonium and spent fuel. We will have tons of plutonium from dismantled weapons, but DOE refuses to build a reactor to consume it. We have reactor fuel sitting corroding in ponds at Savannah River, and DOE is bringing in more from overseas, all because DOE refuses to reprocess spent fuel. They do not dare. Their antinuclear colleagues would never forgive them if they were to reprocess fuel or build a reactor. That would send the wrong message to the world. This administration thinks that if we stop reprocessing fuel and if we stop building reactors, why then surely the rest of the world will see our wisdom and follow us. Madam President, because of this silly theory that what we do will change the nuclear ambitions of North Korea, Iraq, or Pakistan, my State is subjected to being a dumping ground for corroding reactor fuel. It is a terrible policy and it is wrong.

Why would they put is in such a bind? What drives their thinking over their? I want to believe that their intentions are good, that they are not intentionally planning that we stumble toward disaster.

Madam President, at a time when weapons of mass destruction are proliferating around the world and falling into the hands of outlaw states, the United States appears determined to go out of the nuclear weapons business, by default if not by design. If present trends continue, strategic forces will fall to below START II levels. We are canceling weapons production, scrapping vital facilities, losing the rare human skills needed to fabricate, maintain, and test weapons, and putting an end to testing. With the loss of hard-to-replace infrastructure, the loss of scientists and engineers, and the projected shortage of tritium, I can foresee a time early in the next century when America will no longer be a nuclear power. It is going to happen, and it is going to be because of this administration's overthrow of 50 years of bipartisan agreement. Madam President, I hope I am wrong, but it appears from evidence like this that the administration is committed to a nuclear policy far different from what was the basis of 50 years of bipartisan agreement—a new policy based on guilt and shame, a policy that tells the world that the United States is ashamed of having nuclear weapons, a policy dictated by professional antinuclear activists.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1995

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Madam President, I rise to offer an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The Senate is currently considering Amendment No. 1825.

Mr. BROWN. Madam President, I ask unanimous consent that the amendment currently before the body be set aside and that I may be permitted to offer an amendment.

The PRESIDING OFFICER. Is there objection to setting aside the amendment currently before the Senate?

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

The PRESIDING OFFICER. The Senator from Colorado has the floor. He has made the unanimous consent request that the amendment that is pending be set-aside. The Chair has asked if there is objection.

Mr. DECONCINI. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Colorado.

Mr. BROWN. Madam President, at the appropriate time I will offer an amendment. It is one that deals with a very straightforward function. It deals with the expenses for travel of employees.

The amendment simply provides that none of the funds in the bill may be used to pay for the expenses of travel for employees, including employees of the Executive Office of the President, or other individuals who are not directly responsible for the discharge of the official governmental tasks and duties for which the travel is being undertaken.

It is consistent with current law, including title V of the United States Code which authorizes travel expenses for Federal employees and individuals traveling on official business. And it also is consistent with President Clinton's "Memorandum on Restriction of Government Aircraft." That memorandum was issued on February 10, 1993, describing "The limited circumstances under which senior executive branch officials," and that includes employees of the Executive Office of the President, "are authorized to use Government aircraft."

Earlier this year, I think Members will recall there occurred an unfortunate incident involving the use of military helicopters by White House staff for a golf outing which cost thousands of dollars. Ultimately, the White House official responsible for arranging that excursion reimbursed the Government, and I think the President is to be commended for seeing that that reimbursement took place, and I believe his action was appropriate in that follow up.

However, last week, the Associated Press reported that the Defense Department had arranged for 26 flights to Europe for as many as 1,000 individuals, including Government officials, their spouses, staff, and others who attended the D-day anniversary celebrations in Normandy. In addition, there were aircraft used for President Clinton's entourage and White House staff.

Apparently, all this was done at taxpayer expense and cost literally millions of dollars. It is not clear from the information available whether all the passengers on these flights were conducting official business or discharging "an agency's official responsibilities," obviously both terms of art under our law. These are outlined in the President's memo last year under the area of restricting use of Government aircraft. However, according to a statement made during debate on this bill in the other body last week, one of these "staff" was an unpaid White House intern.

Imagine the irony. At the same time, many American veterans paid their own way aboard commercial flights to Europe to participate in the D-day ceremonies.

My amendment simply makes it clear, in effect, that none of the funds in the bill can.be used to pay the travel expenses of Federal employees, including White House staffers, and others, unless they are directly responsible for the discharge of official duties for which the travel is being undertaken.

Madam President, let me emphasize here. Concern over the use of travel expenses and aircraft should not be thought to be confined to this administration. Other administrations of both parties had had trouble in these areas. This is a change in the statutes or modification, and I think properly called a clarification, that I think should apply to all administrations.

One should not think that these travel problems are the province of only one party. My impression is that both parties have had problems in that regard, and this is a change in the law which will be helpful no matter who occupies the White House.

Let me also emphasize that this is not meant to deal solely with the White House or the President's family. Clearly, family members do play an important role in the foreign policy of our country and travel with him is an appropriate and I think a necessary part of the President fulfilling his duties at times.

But this is a measure I think that is needed to make it clear that you simply cannot use Government money for non-official functions.

Madam President, I ask unanimous consent that a copy of the news articles from the Washington Post of June 17, and the Washington Times of June 1, and the Wall Street Journal of March 21, on this matter, and a copy of

the February 10 memorandum on restrictions of Government aircraft be printed in the RECORD following this statement.

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

PENATGON PAID THE FREIGHT FOR D-DAY FETE

The Defense Department arranged 26 flights to Europe for members of Congress, Pentagon officials, their spouses, staff and others who attended the D-Day anniversary celebrations, the Pentagon said.

No cost breakdown for the flights was made available, nor did the Pentagon account for aircraft devoted to President Clinton's entourage and other White House support staff in figures released Wednesday.

The Pentagon flights also carried members of the Cabinet, World War II veterans and high-ranking military officers to the D-Day observance in Normandy, France, the Defense Department said.

Its statement called World War II "the defining event of the 20th century," and argued observance of the 50th anniversary of the Allied invasion on June 6, 1944, which broke through Hitler's Atlantic Wall, "deserves Department of Defense support."

Since the celebrations, Rep. Dan Burton (R-Ind.) has hit the TV talk-show circuit to complain about the size and cost of the administration's D-Day delegation. He said the air travel bill alone may have topped $6 million.

On Wednesday night, the House defeated 287 to 147, a proposal by Burton to trim the White House budget by $5 million because the White House has not provided full information on Clinton's entourage to Normandy.

The White House said over the weekend that both it and the Pentagon would provide information to Congress on the eight-day trip to Europe.

The Pentagon statement said there were eight flights for Pentagon officials, five flights for congressional delegations and 13 flights for ceremonial participants.

[From the Washington Times, June 1, 1994]

UNITED STATES INVADES BY AIR THIS TIME—30 OFFICIAL PLANES GO TO NORMANDY

(By Paul Bedard)

Official Washington's invasion of Normandy for the 50th anniversary of D-Day is turning into a major logistical feat requiring more than 30 military aircraft to transport up to 1,000 government guests.

The price is at least $5 million in flying time to get the guests invited by President Clinton, the Pentagon, and House and Senate members to the daylong ceremonies starting at 5 a.m. Monday.

And that doesn't include the costs of hotel rooms, ground transportation and meals for the guests and security and support staff, up to another 700 people, associated with a presidential trip overseas.

Rep. Dan Burton, Indiana Republican, said he approves of the president going to Normandy for the D-Day ceremonies but noted that "the estimates are he's going to take a thousand people."

"I think it's the height of arrogance and extravagance" at a time when the budget is tight, Mr. Burton said.

Unable to get exact details from the White House and Pentagon about the size of the fleet flying Americans to Normandy, Mr. Burton has assigned aide Kevin Long to call Air Force bases to get a list of aircraft tapped by the administration.

His preliminary results show that all 89th Air Wing jets based at Andrews Air Force Base that are capable of flying to Europe are being used: 12 in all, including the two Boeing 747s assigned to the president. And nine C-141 transports configured to carry cargo and passengers will be sent from Scott Air Force Base in Illinois.

Four C-9 cargo planes based at Dover Air Force Base in Delaware also will be used, as will four C-141s from a base in New Jersey and cargo and passenger jets from Oklahoma's Tinker and Altus bases.

White House spokeswoman Dee Dee Myers said yesterday that the White House is responsible only for the two Boeing 747s and aircraft used to carry staff and presidential limousines and helicopters.

"This is certainly something that goes much beyond the White House, and this is something the Department of Defense has been working on, as you know, for two years. There are other military aircraft going over there in conjunction with that" Miss Myers said.

She rejected Mr. Burton's suggestion that Mr. Clinton is using the flying armada to carry friends and family. She said the White House has no responsibility for who is on the jets other than the two 747s.

She refused to identify those flying on the 747s other than to mention staff and some Cabinet members. First lady Hillary Rodman Clinton is accompanying the president.

But the White House did release the manifests of House and Senate members who will use two or three jets from the 89th Air Wing to get to Normandy.

Twenty-one senators and 35 House members are participating in the ceremonies for D-Day, the June 6, 1944, landing that marked the start of the Allied march to Berlin.

The Pentagon is helping to manage the ceremonies and is bringing dozens of veterans, current officers and press aides to the one-day event.

Representatives of all units involved in the assault on Utah and Omaha beaches will be sent, as will service secretaries and the generals and admirals of major commands, especially those in Europe.

A chartered 747 will fly reporters to Europe to cover Mr. Clinton's visit, which begins tonight and lasts through next week. He will tour Rome, Paris, London and Oxford, England. News organizations using the jet pay for it.

An administration official suggested that the surging costs associated with U.S. participation in the D-Day anniversary result in part from the need to transport troops from the United States to Normandy.

When President Reagan made a short visit to Normandy to commemorate the 40th anniversary, many troops were flown from European commands that have been dismantled since the end of the Cold War.

In addition to transporting American official to the battlefield, the Air Force is sending six F-15 Eagles, six F-16 Falcons and a B-1 for ceremonial duties. Air Force flyovers will take place at Utah Beach and the U.S. cemetery in Normandy.

During the Winter Olympics in Norway, Mr. Burton raised questions about Mrs. Clinton's use of Air Force jets. He also has criticized a White House aide's use of presidential helicopters for a golf outing.

While strongly supporting U.S. participation in the D-Day ceremonies, Mr. Burton criticized the White House for not inviting representatives of major veterans groups to ride on Air Force One.

[From the Wall Street Journal, Mar. 21, 1994]

GSA HEAD PLANS TO REIMBURSE U.S. FOR TRIP EXPENSES

(By Jeffrey H. Birnbaum)

WASHINGTON.—Roger Johnson, the head of the General Services Administration, intends to repay the federal government $1,062.55 in expenses following the first of two reviews of his travel records.

Mr. Johnson, the former chief executive of Western Digital Corp., an Irvine, Calif.-based disk-drive maker, asked for the reviews after The Wall Street Journal obtained his travel vouchers through a Freedom of Information Act request. The vouchers showed that Mr. Johnson visited his residence in California—where his wife was living during five of the nine official trips he took in his first seven months on the job.

A second probe by his agency's inspector general is continuing.

In the meantime, aides said Mr. Johnson intends to repay $589 for meals and incidental expenses for four trips that involved stays in his home. He plans to repay another $473.55 as the result of an error that reimbursed him for one of his trips at the commercial rate rather than the lower, government-employee rate.

The review, conducted by Dennis Fischer, the agency's chief financial officer, also discovered that Mr. Johnson was underreimbursed for an air fare by $353, and will be paid by the government for that flight. Mr. Johnson also personally paid for some of his flights back to California, including one during the recent wildfires.

Mr. Fischer concluded that Mr. Johnson's actions were "consistent with federal travel regulations," as Mr. Johnson asserted they were. Still, Mr. Johnson said he wanted to repay the government for some of the meal and incidental expense payments he accepted while he was staying at his home in order to avoid the appearance of confusing personal with government travel.

The 59-year-old Mr. Johnson has spent a lot of his time in Washington developing plans for—and promoting—President Clinton's effort to make the federal government more efficient. He also is the administration's highest-ranking Republican and its only former chief executive of a major industrial U.S. corporation. The GSA, a 20,000-person agency, oversees the government's real estate and does much of its purchasing.

[From the Weekly compilation of Presidential Documents, Feb. 15, 1993]

MEMORANDUM ON RESTRICTION OF GOVERNMENT AIRCRAFT

February 10, 1993.

Memorandum for the Heads of Executive Departments and Agencies and Employees of the Executive Office of the President.

Subject: Restricted Use of Government Aircraft.

The taxpayers should pay no more than absolutely necessary to transport Government officials. The public should only be asked to fund necessities, not luxuries, for its public-servants. I describe in this memorandum the limited circumstances under which senior executive branch officials are authorized to use government aircraft.

In general, Government aircraft (either military or owned and operated by a particularly agency) shall not be used for non-governmental purposes. Uses other than those that constitute the discharge of an agency's official responsibilities are non-governmental.

The Secretary of State, Secretary of Defense, Attorney General, Director of the Federal Bureau of Investigation, and the Director of Central Intelligence may use Government aircraft for nongovernmental purposes, but only upon reimbursement at "full coach fare" and with my authorization (or that of my designated representative) on the grounds that a threat exists which could endanger lives or when continuous 24-hour secure communication is required.

When travel is necessary for governmental purposes, Government aircraft shall not be used if commercial airline or aircraft (including charter) service is reasonably available, i.e., able to meet the traveler's departure and/or arrival requirements within a 24-hour period, unless highly unusual circumstances present a clear and present danger, an emergency exists, use of Government aircraft is more cost-effective than commercial air, or other compelling operational considerations make commercial transportation unacceptable. Such authorization must be in accordance with the May 22, 1992, Office of Management and Budget Circular A-126, "Improving the Management and Use of Government Aircraft." (The provisions and definitions of this Circular are to supplement but not replace the provisions in this memorandum.) In addition, Government funds shall not be used to pay for first-class travel, unless no other commercial service is reasonably available, or such travel is necessary for reasons of disability or medical condition.

In order to assist the Administrator of General Services oversight of agency aircraft, all use of Government aircraft by senior executive branch officials shall be documented and such documentation shall be disclosed to the public upon request unless classified. Each agency and the Executive Office of the President shall report semiannually to the General Services Administration and the Office of Management and Budget data relating to the amount of travel on Government aircraft by such officials at Government expense and the amount of reimbursements collected for travel for nongovernmental purposes.

In addition, all agencies are directed to report to OMB within 60 days of this memorandum on their continuing need for aircraft configured for passenger use in their inventories. OMB, in turn, shall evaluate the sufficiency and effectiveness of current policies. Such review should include a public comment process.

This memorandum shall apply solely to senior executive branch officials. For purposes of this memorandum, senior executive branch officials are civilian officials appointed by the President with the advice and consent of the Senate, as well as civilian employees of the Executive Office of the President.

Thank you for your assistance in implementing these restrictions.

WILLIAM J. CLINTON.

MEMORANDUM ON USE OF GOVERNMENT VEHICLES

February 19, 1993.

Memorandum for the Heads of Executive Departments and Agencies.

Subject: Use of Government Vehicles.

The use of Government vehicles for daily home-to-work transportation of high-level executive branch officials is a privilege designed to facilitate the efficient operation of the Government and to provide security to key Government employees with substantial military and national security responsibilities. In the past, however, this privilege has been abused by certain executive branch officials and has come to exemplify a Government out of touch with the American people. Using such perquisites of office outside of the scope of our mission to serve the public is unacceptable. Accordingly, I believe that there must be a strong presumption against the general granting of this privilege absent security concerns or compelling operational necessity.

The law authorizes me to designate up to six employees in the Executive Office of the President to receive daily home-to-work transportation in Government vehicles. In addition, the law allows me to designate up to 10 additional employees of Federal agencies to receive this benefit. However, for the reasons stated above, in my Administration, no officer or employee of the Executive office of the President or any other Federal agency is authorized by me to receive use of a Government vehicle for daily home-to-work transportation pursuant to 31 U.S.C. 1344(b)(1)(B)&(C). The only exceptions, for compelling national security reasons, are the Assistant to the President for National Security Affairs, the Deputy Assistant to the President for National Security Affairs, and the Chief of Staff of the White House.

The law also allows Cabinet Secretaries and other Executive Level I officials to authorize one principal deputy to use a Government vehicle for daily home-to-work transportation. The use of Government vehicles for this purpose is simply not appropriate for Government officials at this level absent security or operational requirements. Accordingly, by this memorandum I am instructing you to refrain from authorizing the use of Government vehicles for your deputies for daily home-to-work transportation. This memorandum does not prevent you from authorizing the temporary use of Government vehicles in accordance with the requirements of the law.

I further direct each executive department or agency to reduce the number of executive motor vehicles (except armored vehicles) that it owns or leases by at least 50 percent by the end of fiscal year 1993. Each agency will report on its compliance to the Director of the Office of Management and Budget at that time. I order the Director of the Office of Management and Budget, in consultation with the Administrator of General Services, to issue any further directives necessary to implement this memorandum and to monitor compliance.

Finally, I urge the head of each agency to strictly enforce the Governmentwide regulations prohibiting the unauthorized use of Government vehicles, including the use of corrective or disciplinary action where appropriate.

WILLIAM J. CLINTON.

The PRESIDING OFFICER (Mrs. FEINSTEIN). The Senator from Colorado.

Mr. BROWN. Madam President, may I inquire if the distinguished Senator from Arizona feels it is appropriate to move ahead with an amendment at this point.

Mr. DECONCINI. Let me advise my friend that I am attempting to formulate a suggestion to the Senator's amendment. That is the only reason I am hesitant to have it pending because if the Senator were agreeable to that then I would just ask to offer that amendment, and I will have that in a few short minutes.

Mr. BROWN. I thank the Senator.

Mr. DECONCINI. If the Senator wants to continue but before he lays the amendment down, I would like to offer to him what I think we may be able to accept.

Mr. BROWN. Surely. I appreciate the Senator's willingness to review the matter, and I am happy to work with him.

Madam President, let me emphasize that this does not change in any way I think the treatment of the President's family. It certainly would be my opinion that the travel by the First Lady and the President's family is appropriate, fits in under the current statute, and would not be changed by this amendment.

Madam President, I yield the floor.

Mrs. BOXER. Madam President, I would like to inquire if the distinguished chairman of the subcommittee would be willing to engage in a brief colloquy with me concerning the role of the Internal Revenue Service in the potential development of a 101-acre subdivision in Tiburon, CA, known as the Harroman property.

Mr. DECONCINI. I would be happy to do so at this time.

Mrs. BOXER. I thank the chairman. The Harroman property was seized by the Federal Government in 1965 from a delinquent taxpayer and put into receivership in 1984. It has been the target of IRS collection efforts since 1965.

I would like to call the chairman's attention to language in the House Appropriations Committee report on the fiscal year 1995 Treasury/Postal bill which expresses concern that the IRS, through its collection efforts with regard to the Harroman property, may inadvertently be causing speculative real estate activity which is not in the best interest of the Federal Government. The report further notes the IRS appears to be promoting development of the Harroman property over the opposition of the town of Tiburon and appears to have refused to consider alternatives to the subdivision development which have been suggested by the Tiburon city council.

The House committee directs the IRS to fully investigate its role in this matter and report its findings to the committee by December 15, 1994. Such report is directed to include a full accounting of any expenses that may have been incurred in the promotion of the development of the Harroman property. Further, the IRS is directed to cease all activity concerning promotion of the subdivision development until the report is completed, and to explore alternative proposals with the town of Tiburon.

Is the distinguished chairman of the subcommittee familiar with the House committee report language and is he committed to requiring the IRS to comply with the directions contained therein?

Mr. DECONCINI. I am familiar with the section of the House report to which the Senator from California is referring, and I share her concern that possibly the IRS has not made a strong enough effort to work with the people of Tiburon in reconciling its interests with theirs. I expect the IRS to fully comply with the instructions of the House Committee and I look forward to receiving the report by December 15 of this year.

Mrs. BOXER. I thank the distinguished chairman for his cooperation in this matter of great importance to the people of Tiburon, CA.

I ask unanimous consent that the section of the House Appropriations Committee report which we have been discussing be printed in the RECORD.

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

TIBURON, CALIFORNIA, PROPERTY

It has been brought to the attention of the Committee that the Internal Revenue Service may be influencing the development of a 101-acre subdivision in Tiburon, California. The property was seized in 1965 by the government from a delinquent taxpayer and in 1984, was turned over to receivership. Since 1965, the property has been the target of IRS collection efforts. The Committee has been informed that through its collection efforts, IRS may be inadvertently causing speculative real estate activity and is concerned that such activity may not be in the best interests of the government. The Committee has also been informed that it appears that the IRS may be promoting this development over the opposition of the Town of Tiburon. The committee has also been informed that IRS has been unwilling to explore City-advocated alternatives to the subdivision development.

In light of this information, the Committee directs the IRS to fully investigate its role in this matter and report its findings to Committee by December 15, 1994. The report shall include a full accounting of any expenses which may have been incurred to date in promotion or furtherance of the development venture. The Committee directs the IRS to cease any activity in which it may be engaged concerning the promotion of this development until such time as the report is completed. The Committee further directs that while the investigation is ongoing, that IRS explore with the City alternatives to the Subdivision development.

PROCESSING TAX RETURNS AND ASSISTANCE

Appropriation, fiscal year 1994 to date	$1,695,853,000
Budget estimate, fiscal year 1995	1,616,295,000
Recommended in the bill	1,616,295,000
Bill compared with:	
Appropriation, fiscal year 1994	−80,558,000
Budget estimate, fiscal year 1995	

RECOMMENDATION

The Committee recommends an appropriation of $1,516,295,000, the same as the fiscal year 1995 request, a reduction of $80,558,000 from fiscal year 1994.

MISSION

This appropriation provides for processing tax returns and related documents, processing data for compiling statistics of income and assisting taxpayers in correct filing of their returns and in paying taxes that are due.

TAX LAW ENFORCEMENT

Appropriation, fiscal year 1994 to date	$4,507,963,000
Budget estimate, fiscal year 1995	3,986,280,000
Recommended in the bill	4,413,880,000
Bill compared with:	
Appropriation, fiscal year 1994	−404,618,000
Budget estimate, fiscal year 1995	−426,300,000

Mr. BAUCUS. Madam President, I would like to take a moment to ask the chairman of the subcommittee. Senator DECONCINI, a couple of questions. But first let me commend the chairman for the work he has done on this bill.

This year, unlike previous years, the congressional process appears to have worked rather well. Last year, as chairman of the Environment and Public Works Committee, I made a commitment to the Senate that the committee would authorize projects in the fiscal year 1995 public buildings program prior to action by the Appropriations Committee. By authorizing the fiscal year 1995 program on May 26—before the markup of the appropriations bill—the Environment and Public Works Committee has met its responsibility to authorize projects in a timely manner.

The General Services Administration's fiscal year 1995 public buildings program in the appropriations bill reflects the action taken by the Environment and Public Works Committee. However, there are 10 new construction projects and one repair and alteration project in H.R. 4539 that are unauthorized projects. By including language in H.R. 4539 that explicitly requires authorization by both the House Public Works Committee and the Environment and Public Works Committee, there is an assurance that no unauthorized projects receive appropriated funds. I commend the Senator from Arizona for recognizing that these projects need to be reviewed by the Environment and Public Works Committee before any appropriated funds are expended.

My concern, of course, is the conference report. The House version of H.R. 4539 funds many of these authorized projects—without the proviso that they be authorized prior to expenditure of funds. This bad policy and as chairman of the authorizing committee, I object to this. I would like to ask the Senator from Arizona a question—is it his intention to hold firm with his House counterparts and insist upon language explicitly requiring authorization of all public buildings projects by both the House Public Works and Transportation Committee and the Senate Environment and Public Works Committee—prior to the expenditure of appropriated funds?

Mr. DECONCINI. I would like to assure my friend from Montana, chairman of the Environment and Public Works Committee, that it is certainly my intention to insist upon language in the conference report accompanying H.R. 4539 that will require authorization of all line-item public buildings projects subject to the authorization requirements of section 7(a) of the Public Buildings Act of 1959.

Mr. BAUCUS. I thank my colleague. I would like to ask one more question of the chairman of the subcommittee. I am pleased to see that the bill before us proposes to rescind funds for a number of projects. Projects where savings have been identified by GSA's "time-out and review" and most recently by the Environment and Public Works Committee.

As the Environment and Public Works Committee considers the authorization of the 10 unauthorized projects in H.R. 4539, savings could be identified and reflected in the authorized level. This would create a situation where the authorization is at a lower level than the appropriated amount. Would the chairman of the subcommittee support the rescission of the difference in the authorized and appropriated amounts?

Mr. DECONCINI. As the Senator from Montana has noted, the bill before us today does, in fact, rescind over $88 million. After receiving a prospectus and other information on any unauthorized project in the conference report, should the Environment and Public Works Committee identify savings, we would consider rescission or reprogramming of these funds to other Federal building fund priorities.

Mr. BAUCUS. I thank the chairman.

Madam President, let me again commend the chairman of the subcommittee for his work on this bill and also specifically recognize him for his years of dedication to the U.S. Senate and the citizens of the State of Arizona.

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

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWN. 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. BROWN. Madam President, what is the current business before the body?

The PRESIDING OFFICER. The pending question is amendment No. 1825.

Mr. BROWN. Madam President, I ask unanimous consent that the pending amendment be set aside and that I be permitted to offer an amendment.

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

Is the Senator asking for recognition?

Mr. BROWN. I am.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. BROWN. Thank you, Madam President.

AMENDMENT NO. 1826

(Purpose: To limit use of funds for travel expenses to those employees directly responsible for the discharge of the official governmental tasks and duties for which the travel is being undertaken)

Mr. BROWN. Madam 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 Colorado [Mr. BROWN] proposes an amendment numbered 1826.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

SEC. . No part of any appropriation contained in this Act may be used to pay for the expenses of travel of employees, including employees of the Executive Office of the President, or other individuals, not directly responsible for the discharge of the official Governmental tasks and duties for which the travel is undertaken:

Provided, That this restriction shall not apply to family of the President, members of Congress, Heads of State of a foreign country or their designee(s').

Mr. BROWN. Madam President, this amendment is much like what I outlined a few minutes previous to this. It has one addition; that is, the "provided" clause that makes clear that it does not apply to the President's family or foreign heads of State, and so on.

It does not include all of the language which had been suggested by the distinguished Senator from Arizona, but it does seem to me it makes it clear that we are not to have the taxpayers pay for people traveling on Government aircraft that are not involved in official business. It also makes clear that this does not apply to the President's family, which obviously is an area that I think most Members would agree have, and on a regular basis have in the past, been part of trips and add to the value of those official trips

Madam President, I yield the floor.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 1827 TO AMENDMENT NO. 1826

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 1827 to amendment No. 1826.

The amendment is as follows:

At the end of the pending amendment, add the following: "or other individuals so designated by the President".

Mr. DECONCINI. Madam President, I understand what the Senator from Colorado is attempting to do, and that is restrict the use of travel to official business. And that is appropriate.

I have to say, parenthetically, I do not recall this kind of amendment coming up in previous administrations, but I know the Senator from Colorado would have offered it had there been an incident like there was recently, which I believe prompted this. I do not want to put any words in the Senator's mouth, but I just raise it for purposes of clarification here. I think we know what we are talking about.

This amendment is to stop or to prevent people who work for the President or for the Government from using official travel—helicopters or whatever it may be—for business that is nonofficial business, even if it is connected with official business.

Now I have to object to that. I do not know if the White House objects to it or not.

I think the Senator has a good point. What does bother me about the amendment is—and I thank the Senator for expanding it to the President's family, Members of the Congress, and heads of State of a foreign country or their designees—is that the President himself, in my judgment, ought to be able to invite someone that he wants to go on a trip with him, even if it were not official business.

I cannot see any reason that George Bush could not invite a veteran to go along with him, even if it was not official business, even if he was just traveling with him because he is a friend of his and he may want to talk to him. Maybe he is going to talk to him about veterans' affairs. Then we might say that is official business, but we do not know that it is official business.

The President of the United States ought to be able to say, "I want this person to go with me." I do not think that is asking too much for the head of State in the strongest nation and the most economically and militarily powerful nation in the world not to be able to say, "I want this person to go with me."

The Senator has agreed to other Members of Congress and other things. But it just seems to me it is inappropriate.

What if the President wants his dentist to go with him? Is that official business? I would not know. But I would not want to prevent the President from taking his dentist.

President Bush liked to play golf. This President likes to play golf. What if he wanted to take his golf pro, so when he is out there on official business in California he may want to play golf? Maybe the taxpayers would object to that.

It only places the responsibility on the President to make a decision whether or not there is an individual he would like to travel with him. I do not think that is unreasonable. I think this is most reasonable, that the President ought to be able to do that. I hope the Senator from Colorado would agree that this one person in the country—and even if he and I, the Senator from Colorado and I, might say that is a foolish mistake to take your pro, your golf pro—but it is the President of the United States. It is not like we are giving immunity from taxes or something like that. We say, if you want to take a friend, somebody who is not official business, you can take him on Air Force One with you, or he can drive in a limousine out to Camp David with you. If it is a friend of his daughter's who is going to go to Camp David to spend the weekend and they are going to drive out there, OK, you can come with us in our limousine because of our Secret Service concerns. You are my friend, I want you to come, whatever—the young lady or young man might want to be able to spend the weekend with the President and the family.

So I think we can get too carried away with this. If the Senator from Colorado would accept this amendment, then I suggest to the Senator from Missouri that we accept his amendment as amended by me.

I can go into a great deal of problems with the amendment. The one that comes to my immediate mind is veterans, who often travel with Presidents, people with disabilities who often travel with Presidents—I do not know why. Maybe it is official business, but it could be the President is extending nothing more than friendship to a particular group of people. They may be not veterans. They may be, God forbid, lawyers. Maybe he wants to take some lawyers with him that are not for official business.

If the President is going to draw a will, that is not official business. If he wants to talk about his legal problems on the airplane while he is flying to Miami or to Moscow, which is personal business, he ought to be able to take the lawyer with him, or the banker who might give him some advice on investments.

I think this is just way too restrictive, that a President would be prohibited from doing that unless he could then demonstrate that it is official business.

So you are asking the President to say, "gee, I have to conjure up some official business here so I can take my banker, or I can take my veteran friend, or I can take my lawyer, or my dentist. Because while I am flying across the ocean I like to have the work done on my gums and they are willing to do it there." It is really going way too far.

I am sure the Senator from Colorado did not have that in mind, but that is why I suggested we restrict it to the President's decision. He will be responsible to the public interpretation if that is unacceptable conduct for a President.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Madam President, I appreciated the summary the senior Senator from Arizona has given. I think he pinpoints the disagreement between us.

As Members consider how they will vote on this measure, let me first of all note the President has broad authority simply by what he may designate as official business. In other words, the President has the ability, for example, when traveling to a Veterans Day celebration, to indeed make a Veterans Day effort the official business he or she may be involved in that day. And the President has enormous ability, under the existing statute, to control what is official business, and thus enormous authority and breadth of decisionmaking as to who legally qualifies, properly qualifies to travel on the airplane.

The only people this would affect are people who are not in any way involved in official business and, regardless of what the President designates as official business, could not come under that exception. That is a very narrow group.

Let me also note under title 5, the Federal law now is quite clear that the only way you can receive this travel, the only way money can be expended for travel, for Government travel, is if it is for official business. The difference between my amendment and existing law is this: Current law lays out what you can spend it for, that is for official business. This amendment makes it clear that you cannot spend it unless it is official business.

Is it very similar? Yes. But it is also quite clear that the abuses that have been noted recently are not ones we can allow the taxpayer to pick up the bill for.

It seems to me Members have a clear choice here. Do you want the President to be able to designate that the taxpayers are going to pay for travel for anybody he designates, or she designates, in the future, even though they have nothing to do with official business, or not?

If you think people who are not on official business should have their travel taken care of by the taxpayers, then you will want to vote for the DeConcini amendment. If you think the taxpayers' money ought to be used only for official business, then I hope you will vote against the DeConcini amendment.

Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second at the moment.

The Senator from Colorado is recognized.

Mr. BROWN. Let me simply ask Members to consider what is at stake here. The Senator from Arizona, I think, had talked about various people who could be in this category; that is asked by the President to come on a trip even though that person may not have anything to do with official business. Who would that be? A golf pro? Well, is it a convenience to the President to have his own or her own personal golf pro come along? Perhaps it would be. Should the taxpayers pick up the tab? This Senator thinks they should not. This gives us a chance to vote on that. I think it is a very clear amendment in that regard.

We are a great Nation. We are a very powerful Nation, as the Senator from Arizona has mentioned. I could not agree more with it.

But it would be remiss of me not to note that we are also the most deeply-in-debt Nation on the face of the Earth and in the history of the world. We also have the biggest trade deficit of any nation in the world. We also have the lowest capital formation rate and savings rate of any major industrialized country in the world.

We ought to be concerned about wise use of the public money. Thus I think the underlying amendment would satisfy the concern over the use of taxpayers' dollars far more than the amendment that is offered.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

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

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

The Senator from West Virginia is recognized.

Mr. BYRD. I thank the Chair.

Madam President, I commend the managers of this bill, Mr. DECONCINI, chairman of the Treasury, Postal Service Subcommittee, and Mr. BOND, the ranking member of the Treasury, Postal Service Subcommittee, for their excellent work on this legislation throughout the hearings, in markup, and their management of the bill thus far on the floor.

Senator DECONCINI has been a member of the Appropriations Committee since 1977. He has been chairman of the subcommittee since 1987. This is his final year as chairman of the Treasury, Postal Subcommittee. He will not be here to manage this bill next year. I wish it were not so. His knowledge and understanding of even the most minute details of this legislation have been evident from the first. His work on this bill has demonstrated his dedication to duty and to getting the job done and doing so in a cooperative and cheerful manner. He is persistent, tenacious, dedicated, and effective.

He should be proud of the outstanding work he has done again this year on this very difficult bill, and as chairman of the Appropriations Committee, I am proud of the work that he has done. I am also proud of the dedicated support that he receives from his loyal staff, both in his office and on the Appropriations Committee.

And the work of Senator BOND, whose expertise in these matters is considerable and growing, is also appreciated.

I urge all Members to support the bill upon its final passage.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Madam President, I am indebted to the Senator from West Virginia for his friendship and his kindnesses that he has extended to this Senator over the years. He had gone out of his way on a number of occasions to assist this young, new, budding Senator some 18 years ago, that I will never forget, and for his taking the time tonight to express his friendship and compliments.

I will try to get out of the body tonight with my head intact. I appreciate it very much.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Madam President, I ask unanimous consent that the following amendments be the only first-degree floor amendments in order to H.R. 4539, the Treasury, Postal Service appropriations bill; that they be subject to second-degree amendments provided they are relevant to the first-degree amendments to which they are offered; that no other motion to recommit be in order during the pendency of this agreement; that these first-degree amendments must be offered by close of business today, June 21, except as noted below; provided further that in the case where there is a time limit on the first-degree amendment, that any second-degree amendment be subject to the same time limit, with the time equally divided and controlled in the usual form.

Those amendments are: an amendment by Senator DECONCINI regarding Customs inspectors' pay; an amendment by Senator DECONCINI regarding revenue foregone, and that is amendment No. 1822; an amendment by Senator FAIRCLOTH regarding drug testing, and that is amendment No. 1825; an amendment by Senator DECONCINI that is relevant; an amendment by Senator BROWN regarding travel expenses, and that is amendment No. 1826, and a second-degree amendment to that amendment by Senator DECONCINI, that is amendment No. 1827; an amendment by Senator DECONCINI that is relevant; an amendment by Senator BOND that is relevant; an amendment by Senator DECONCINI that is relevant; an amendment by Senator BOND that is relevant;

an amendment by Senator DECONCINI that is a managers' amendment; an amendment by Senator FORD that is relevant; an amendment by Senator DECONCINI for Senators MITCHELL and DOLE regarding congressional awards.

Madam President, I further ask unanimous consent that when the Senate resumes consideration of H.R. 4539 on Wednesday, June 22, that the following be the only first-degree amendments remaining in order and that they must be offered by 1 p.m. on Wednesday, June 22; that they be subject to second-degree amendments provided they are relevant to the first degree to which they are offered; further, that in the case where there is a time limit on the first-degree amendment, that any second-degree amendment be subject to the same time limit with the time equally divided and controlled in the usual form.

Those amendments are: an amendment by Senator LEVIN to restore funding for ASUC, 20 minutes; an amendment by Senator REID regarding land border crossing fee, 50 minutes; an amendment by Senator GORTON regarding diesel fuel boaters, 50 minutes; an amendment by Senator BOND that is relevant, 50 minutes; an amendment by Senator DECONCINI that is relevant, 50 minutes; an amendment by Senator DOMENICI regarding review of procurement reform, 20 minutes; an amendment by Senator MCCAIN regarding GSA approval courthouse, 10 minutes; an amendment by Senator MCCAIN to delete FTE requirements from the bill, 30 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. BROWN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. BROWN. Madam President, the Senator from Arizona and I are very close to an agreement on working out the amendment and his amendment to my amendment. I ask that the unanimous-consent request include a provision allowing me to modify my amendment with the agreement of the Senator from Arizona.

Mr. MITCHELL. Madam President, I so modify my request, and I renew my request.

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

ORDER OF PROCEDURE

Mr. MITCHELL. Madam President, I say to Members of the Senate, in view of our having obtained this agreement, there will be no further rollcall votes this evening. The amendments which must be offered today as listed will either be accepted or if one or more votes are required, those votes will be set to occur tomorrow morning. Then there will be tomorrow morning, up through 1 p.m. tomorrow, the potential of eight other amendments.

I do not know at this time how many, if any, of those will require votes. But those Senators on that list should be aware that they must offer the amendments prior to 1 p.m. tomorrow or the amendments will no longer be in order. That means that we expect to complete action on this bill, I hope, shortly after 1 p.m., and then we will be proceeding to the Department of Defense authorization bill.

So I thank my colleagues for their cooperation. I thank Senator BOND and Senator DECONCINI for their cooperation.

Mr. MITCHELL. Madam President, I share the sentiments expressed by Senator BYRD about the leadership and skill which Senator DECONCINI has demonstrated as a manager of legislation, particularly, and as a Senator generally.

It has been a great pleasure, indeed an honor, to have served with him, and I can say that having been majority leader now for nearly 6 years and having observed a large number of Senators managing legislation, it is a very difficult art and there is no one who exceeds Senator DECONCINI in skill, persistence, tenacity, and the perseverance needed to gain enactment of complex legislation.

So I merely wanted to make that comment, and I thank him for his work on this bill. We will now finish this bill early tomorrow afternoon, thanks in large part to his leadership.

Madam President, I suggest the absence of a quorum.

Mr. DECONCINI. Madam President, if the Senator will withhold, I thank the majority leader for his kindness and his compliments. I appreciate the leadership that he has brought to this body. He is always there to help when you need a leader to help get something through and passed. Senator MITCHELL is always willing to forgo many of his own positions and what have you to come out and get involved. That is why some of us are able to pass some things, or anybody is able to pass some things, because of his leadership. And I thank him for his friendship probably more than anything else over the years in being in the Senate with him.

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

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Madam President, I thank the Chair for recognizing me.

Madam President, in the past hour, hour and a half there has been extensive discussion relative to a speech on the floor of the Senate made by our friend from North Carolina, the junior Senator, Senator FAIRCLOTH.

Upon hearing that speech on the monitor, Madam President, I immediately, I guess, took umbrage at what I thought at that time and heard at that time, or thought I heard at that time, which was in my earliest recollection of my earliest understanding of what Senator FAIRCLOTH I thought was saying, I thought was stating that Patsy Thomasson of the White House staff had admitted to cocaine use.

Madam President, I went to Senator FAIRCLOTH. We met in the middle of the Chamber. We discussed this at some length. And I had urged him to make an apology not only to Patsy Thomasson at the White House but also to the United States Senate.

I also stated, if I had misrepresented what he had said, that I would apologize to him. So, Madam President, I am in the Chamber tonight to state that I may have read into what he was saying a comma or maybe an inflection and certainly an innuendo about this fine person, Patsy Thomasson; that upon listening once again to the videotape actually two times—we went to Senator DOLE's office—I must say, Madam President, that on this particular point I owe an apology to my friend from North Carolina, and I do so apologize.

I also state that in addition to the apology I make to him, I think in two or three instances or places in his remarks our friend from North Carolina, in my opinion, came very close to indicating that Patsy Thomasson had been or was, or perhaps even is—I should say, or has been a drug user. For example, he states that Patsy Thomasson refuses to disclose to Congress whether the people monitoring the White House drug testing program including herself are among the specially tested group of people with histories of drug abuse.

Now, to a lot of reasonable people, this would imply, or we would infer that Patsy Thomasson in the White House has a history of drug abuse.

There are two or three other instances in Senator FAIRCLOTH's speech, but once again, Madam President, I want to say that I am going to live up to my end of the bargain, and I am going to apologize to my friend. But I do hope that we will use the Senate —in this great body of debate and certainly of decorum, I hope we will be all cautious to realize that sometimes by innuendo we can certainly tarnish and perhaps ruin permanently someone's very good character.

I know that last week the Senator from North Carolina discussed in the Chamber in a very negative way another very fine person in our State, Beverly Bassett Schaffer, a splendid individual, fine public servant of our people, wonderful lawyer. Tonight it is Patsy Thomasson. Tomorrow, tomorrow night, who else?

But I do say I wish to live up to my end of the bargain, Madam President. I do apologize to the Senator from North Carolina.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. FAIRCLOTH. I accept the apology of the Senator from Arkansas. I appreciate the spirit in which he offered it, and I accept it in the same manner.

I did not say that Patsy Thomasson used cocaine. I did say very clearly that she had a close business relationship with a man who used cocaine extensively.

I said that she would not assure Members of the House that the people monitoring the White House drug testing including herself were not among the specially tested group of White House employees with a history of drug use. And I repeat, she would not assure Members of the House of this fact.

Given that fact and given her past relationship with Mr. Lasater, I still believe the President should certify that no one in charge of that drug testing program has a history of drug problems themselves. And that is very simply what my amendment will do.

If President Clinton makes that certification, that is good enough for me. But the American people have the right to know.

I yield the floor.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Madam President, the pending business is the amendment by the Senator from Colorado, am I correct, or the second-degree amendment?

The PRESIDING OFFICER. The pending amendment is the second-degree amendment of the Senator from Arizona.

Mr. DECONCINI. I thank the Chair.

Madam President, I have been working with the Senator from Colorado, and he and I have agreed to a slight alteration. And under the UC, if I am not mistaken, his amendment or my second-degree amendment can be modified with consent of both of us. I hereby send to the desk such a modification and ask unanimous consent that the second-degree amendment be modified as so submitted.

The PRESIDING OFFICER. Is there objection? There being no objection, it is so ordered.

The modification is as follows:

At the end of the pending amendment, add the following: "The name and expense of travel of anyone so designated by the President shall be disclosed to the Congress."

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Madam President, I thank the Senator from Colorado for making this accommodation. I understand where he is coming from, and indeed I think this will permit the President flexibility but also put the responsibility clearly with the President for whomever he may decide he wants to travel with him. I for one think that he should have that flexibility, and I have no objections at all to him making that public. I think the President in this case and probably other Presidents as well are not hiding with whom they travel. Everybody finds out. The press sees them come and go and they count the people who get on and off. Manifests are available, I understand. So I can see no particular problem with it.

I thank the Senator. I am prepared to accept the amendment if my friend from Missouri is.

The PRESIDING OFFICER. Does the Senator from Colorado seek recognition?

Mr. BOND. We are prepared to accept it.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. I thank the Chair. I am prepared to accept the amendment.

I would say that my preference would be that the amendment as originally put forth be adopted, that is, someone who is not on official business who would be allowed to travel with a President not be paid for. But frankly, I am convinced that the discipline of disclosing anyone not involved in official business is a very strong discipline, and my sense is that every President who may choose to exercise this discretionary power will use great care, and I suspect if they do not use great care they will find a very strong reaction by the American public.

So, the discipline of having to publicly report and file this information along with the name and the cost, I think, will accomplish the purpose.

I agree to the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Arizona.

The amendment (No. 1827), as modified, was agreed to.

Mr. DECONCINI. Madam President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Colorado, as amended.

The amendment (No. 1826), as amended, was agreed to.

Mr. DECONCINI. Madam President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1828

Mr. DECONCINI. Madam President, I have technical amendments that have been cleared with the ranking member. I send several of these amendments to the desk and ask that they be considered en bloc.

These amendments make technical corrections to the Federal wage scale language in the bill. Several paragraphs were inadvertently omitted in the bill.

Also, I have an amendment here which increases the funding for the Historical Publication on Records Commission by $250,000; technical language to White House security; technical change to a provision in the bill which relates to the COLA savings in Alaska and Hawaii.

I ask unanimous consent that these amendments all be considered en bloc.

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

Without objection, the pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 1828.

Mr. DECONCINI. 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:

On page 63, line 20, strike "$5,000,000" and insert "$5,250,000".

On page 98, line 12, strike the words "one-fifth".

On page 99, add the following between lines 11 and 12:

(D) The applicable amount under this paragraph shall be zero if neither subparagraph (A), subparagraph (B), nor subparagraph (C) applies.

(3) The Office of Personnel Management shall discuss with and consider the views of the Federal Prevailing Rate Advisory Committee in carrying out the Offices's responsibilities with respect to this paragraph.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, and no employee covered by section 5348 of such title, may be paid during the periods for which subsection (e) is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purposes of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule that was not in existence on September 30, 1994, shall be determined under regulations prescribed by the Office of Personnel Management.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1994, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) The provisions of this section shall apply with respect to pay for services performed by any affected employee on or after October 1, 1994.

(f) For the purpose of administering any provision of law (including section S431 of title 5, United States Code, and any rule or regulation, that provides premium pay, retirement, life insurance, or any other employee benefit) that requires any deduction or contribution, or that imposes any requirement or limitation, on the basis of a rate of

salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section shall be considered to permit or require the payment in any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment and retention of qualified employees.

(i) The Office of Personnel Management may prescribe any regulations which may be necessary to carry out this section.

On page 113, line 5, strike "in" and insert in lieu thereof "on";

On page 113, line 10, insert after "SF-86" the words "or equivalent form";

On page 113, line 11, insert after "not," the word "within";

On page 113, line 16, strike "White House" and insert in lieu thereof "access".

On page 84, line 19, strike all through page 85, line 13, and insert the following:

SECTION 1. The allowances provided to employees at rates set under section 5941 of title 5, United States Code, and Executive Order Numbered 10000 as in effect on the date of the enactment of this Act may not be reduced during the period beginning on the date of the enactment of this Act through December 31, 1996: *Provided*, That no later than March 1, 1996, the Office of Personnel Management shall conduct a study and submit a report to the Congress proposing appropriate changes in the method of fixing compensation for affected employees, including any necessary legislative changes. Such study shall include—

(1) an examination of the pay practices of other employers in the affected areas;

(2) a consideration of alternative approaches to dealing with the unusual and unique circumstances of the affected areas, including modifications to the current methodology for calculating allowances to take into account all costs of living in the geographic areas of the affected employees; and

(3) an evaluation of the likely impact of the different approaches on the Government's ability to recruit and retain a well-qualified workforce.

For the purpose of conducting such study and preparing such report, the Office may accept and utilize funds made available to the Office pursuant to court approval.

Mr. DECONCINI. These are technical amendments with the exception of the one for Historical Publications on Records Commission for $250,000.

The PRESIDING OFFICER. Is there further debate on the amendments? If not, the question is on agreeing to the amendments.

The amendment (No. 1828) was agreed to.

Mr. DECONCINI. Madam President, I move to reconsider the vote by which the amendments were agreed to.

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

The motion to lay on the table was agreed to.

HOUSE COMMITTEE REPORT

Mr. HATFIELD. I would like to make the distinguished chairman of the subcommittee aware of a provision in the House committee's report that is of particular interest to me and the electric ratepayers in the Pacific Northwest.

Mr. DECONCINI. I would be pleased to hear the Senator from Oregon's concerns.

Mr. HATFIELD. On pages 7 and 8 of its report, the House included a provision dealing with the Bonneville Power Administration's request to the Department of the Treasury to develop a revised methodology under section 9(f) of Public Law 96-501. The House report requests that the Secretary of the Treasury provide a report on this issue by January 1, 1995.

Mr. DECONCINI. I am aware of that particular provision.

Mr. HATFIELD. This is a rather complicated issue dealing with the financing of electric generating resources by public entities in the Pacific Northwest, and it is extremely important to regional energy planning and development in my region. While I consider the House provision to be a positive action, I believe that further clarification may be necessary during conference.

Without going further into the details of the issue at this time, I am asking whether the distinguished subcommittee chairman would be willing to work with me in conference to secure further clarification and direction, to the extent that it is needed, to the Secretary of the Treasury to assist in the resolution of this matter.

Mr. DECONCINI. I would be pleased to work with the Senator from Oregon on this issue in our conference.

Mr. HATFIELD. I thank the distinguished Senator from Arizona.

AMENDMENT NO. 1829

(Purpose: To amend the Congressional Award Act to provide that the Secretary of the Treasury shall strike the medals awarded under such Act, and for other purposes)

Mr. DECONCINI. Madam 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 Arizona [Mr. DECONCINI] for Mr. MITCHELL (for himself and Mr. DOLE) proposes an amendment numbered 1829.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . CONGRESSIONAL AWARD PROGRAM MEDALS.

Section 3 of the Congressional Award Act (2 U.S.C. 802) is amended—

(1) in subsection (a)—

(A) by striking "gold, silver, and bronze"; and

(B) by striking the last sentence and inserting the following: "Each medal shall consist of gold-plate over bronze, rhodium over bronze, or bronze and shall be struck in accordance with subsection (f)."; and

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

"(f) CONGRESSIONAL AWARD PROGRAM MEDALS.—

"(1) DESIGN AND STRIKING.—The Secretary of the Treasury shall strike the medals described in subsection (a) and awarded by the Board under this Act. Subject to subsection (a), the medals shall be of such quantity, design, and specifications as the Secretary of the Treasury may determine, after consultation with the Board.

"(2) NATIONAL MEDALS.—The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be charged against the Numismatic Public Enterprise Fund such amounts as may be necessary to pay for the cost of the medals struck pursuant to this Act.".

Mr. DECONCINI. Madam President, this is a noncontroversial amendment which has been cleared on both sides and is being offered at the request of the joint leadership of both Houses of Congress on behalf of Senators MITCHELL and DOLE.

The purpose of this amendment is to direct the U.S. Mint to strike medals awarded by the Congressional Award Program. The Congressional Award Act, Public Law 96-114, was enacted in 1979 "to promote initiative, achievement, and excellence among youths in the areas of public service, personal development, and physical and expedition fitness." Under this program, gold, silver, and bronze medals are awarded to young Americans, aged 14 to 23, who satisfy the standards of achievement established by the Congressional Award Board.

To date, more than 5,000 recipients have contributed more than 1 million hours of volunteer community service in earning this award. Since the inception of this program, the Congressional Award Board has privately contracted to supply the medals awarded to the recipients. Given the nature of this program and its record of success, however, the joint bipartisan leadership of Congress and other sponsors of the Congressional Award believe that the U.S. Mint should strike national medals symbolizing genuine congressional recognition of each recipient's achievements.

As this legislation was drafted, representatives of the joint leadership, and the Congressional Award Board worked closely with the U.S. Mint to develop a successful, yet cost-effective, approach to this proposal. To this end, each medal will consist of less expensive materials without compromising the high quality appearance of the current medals. Also, the Secretary of the Treasury will determine the quantity, design, and specifications of the medals, after consultation with the Congressional Award Board. Finally, the Mint's production of these medals will not require an appropriations, as necessary amounts will be charged against the Mint's revolving fund for numismatic programs and operations, the numismatic public enterprise fund.

I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The amendment (No. 1829) was agreed to.

Mr. DECONCINI. Madam President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

Mr. DECONCINI. Mr. President, what is the present order?

The PRESIDING OFFICER. The Senate is considering amendment No. 1825.

Mr. DECONCINI. That is the Faircloth amendment?

The PRESIDING OFFICER. The Senator is correct.

UNANIMOUS-CONSENT AGREEMENT

Mr. DECONCINI. Mr. President, I ask unanimous consent that when the Senate reconvenes tomorrow morning, after morning business and leadership time is set aside, the vote occur on amendment No. 1825 at 10 a.m., without any intervening action.

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

Mr. DECONCINI. Mr. President, I ask for the yeas and nays on the Faircloth amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

AMENDMENT NO. 1830

(Purpose: To amend chapters 83 and 84 of title 5, United States Code, to extend the civil service retirement provisions of such chapter, which are applicable to law enforcement officers, to inspectors and canine enforcement officers of the U.S. Customs Service, and for other purposes)

Mr. DECONCINI. 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 Arizona [Mr. DECONCINI] proposes an amendment numbered 1830.

Mr. DECONCINI. 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 ___, insert between lines ___ and ___ the following new section:

SEC. ___. CUSTOMS SERVICE INSPECTORS AND CANINE ENFORCEMENT OFFICERS AS LAW ENFORCEMENT OFFICERS FOR FEDERAL RETIREMENT SYSTEMS.

(a) SHORT TITLE.—This section may be cited as the "Customs Service Inspectors and Customs Canine Enforcement Officers Retirement Act of 1994".

(b) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) DEFINITIONS.—Section 8331 of title 5, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (25);

(B) by striking out the period at the end of paragraph (26) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new paragraphs:

"(27) 'customs inspector' means an employee of the United States Customs Service—

"(A) who—

"(i) elects to make contributions and be covered in accordance with section 4 of the Customs Service Inspectors and Customs Canine Enforcement Officers Retirement Act of 1994; or

"(ii) is hired after the effective date of such Act; and

"(B) the duties of whose position are primarily to—

"(i) enforce laws and regulations governing the importing and exporting of merchandise;

"(ii) process and control passengers and baggage;

"(iii) interdict smuggled merchandise and contraband; and

"(iv) apprehend (if warranted) persons involved in violations of customs laws,

including an employee engaged in this activity who is transferred to a supervisory or administrative position; and

"(28) 'customs canine enforcement officer' means an employee of the United States Customs Service—

"(A) who—

"(i) elects to make contributions and be covered in accordance with section 4 of the Customs Service Inspectors and Customs Canine Enforcement Officers Retirement Act of 1994; or

"(ii) is hired after the effective date of such Act; and

"(B) the duties of whose position are primarily to work directly with a dog in an effort to—

"(i) enforce laws and regulations governing the importing and exporting of merchandise;

"(ii) process and control passengers and baggage;

"(iii) interdict smuggled merchandise and contraband; and

"(iv) apprehend (if warranted) persons involved in violations of customs laws,

including an employee engaged in this activity who is transferred to a supervisory or administrative position.".

(2) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—Section 8334 of title 5, United States Code, is amended—

(A) in subsection (a)(1), by striking out "a law enforcement officer," and inserting in lieu thereof "a law enforcement officer, a customs inspector, a customs canine enforcement officer,"; and

(B) in the table in subsection (c), by striking out "and firefighter for firefighter service." and inserting in lieu thereof ", firefighter for firefighter service, customs inspector for customs inspector service, and customs canine enforcement officer for customs canine enforcement officer service".

(3) MANDATORY SEPARATION.—Section 8335(b) of title 5, United States Code, is amended in the second sentence by striking out "law enforcement officer" and inserting in lieu thereof "law enforcement officer, a customs inspector, or a customs canine enforcement officer".

(4) IMMEDIATE RETIREMENT.—Section 8336(c)(1) of such title is amended by striking out "law enforcement officer or firefighter," and inserting "law enforcement officer, a firefighter, a customs inspector, or a customs canine enforcement officer,".

(c) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

(1) DEFINITIONS.—Section 8401 of title 5, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (31);

(B) by striking out the period at the end of paragraph (32) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new paragraphs:

"(33) 'customs inspector' means an employee of the United States Customs Service—

"(A) who—

"(i) elects to make contributions and be covered in accordance with section 4 of the Customs Service Inspectors and Customs Canine Enforcement Officers Retirement Act of 1994; or

"(ii) is hired after the effective date of such Act; and

"(B) the duties of whose position are primarily to—

"(i) enforce laws and regulations governing the importing and exporting of merchandise;

"(ii) process and control passengers and baggage;

"(iii) interdict smuggled merchandise and contraband; and

"(iv) apprehend (if warranted) persons involved in violations of customs laws,

including an employee engaged in this activity who is transferred to a supervisory or administrative position; and

"(34) 'customs canine enforcement officer' means an employee of the United States Customs Service—

"(A) who—

"(i) elects to make contributions and be covered in accordance with section 4 of the Customs Service Inspectors and Customs Canine Enforcement Officers Retirement Act of 1994; or

"(ii) is hired after the effective date of such Act; and

"(B) the duties of whose position are primarily to work directly with a dog in an effort to—

"(i) enforce laws and regulations governing the importing and exporting of merchandise;

"(ii) process and control passengers and baggage;

"(iii) interdict smuggled merchandise and contraband; and

"(iv) apprehend (if warranted) persons involved in violations of customs laws,

including an employee engaged in this activity who is transferred to a supervisory or administrative position.".

(2) IMMEDIATE RETIREMENT.—Section 8412(d) of title 5; United States Code, is amended—

(A) in paragraph (1) by striking out "or firefighter," and inserting in lieu thereof "firefighter, customs inspector, or customs canine enforcement officer,"; and

(B) in paragraph (2) by striking out "or firefighter," and inserting in lieu thereof "firefighter, customs inspector, or customs canine enforcement officer,".

(3) COMPUTATION OF BASIC ANNUITY.—Section 8415(g)(2) of title 5, United States Code,

is amended in the sentence following subparagraph (B) by inserting "customs inspector, customs canine enforcement officer," after "firefighter,".

(4) DEDUCTIONS.—Section 8422(a)(2) of title 5, United States Code, is amended—

(A) in subparagraph (A) by inserting "customs inspector, customs canine enforcement officer," after "air traffic controller,"; and

(B) in subparagraph (B) by inserting "customs inspector, customs canine enforcement officer," after "air traffic controller,".

(5) GOVERNMENT CONTRIBUTIONS.—Section 8423(a) of title 5, United States Code, is amended—

(A) in paragraph (1)(B)(i) by inserting "customs inspectors, customs canine enforcement officers," after "law enforcement officers,"; and

(B) in paragraph (3)(A) by inserting "customs inspectors, customs canine enforcement officers," after "law enforcement officers,".

(6) MANDATORY SEPARATION.—Section 8425(b) of title 5, United States Code, is amended in the second sentence by inserting ", customs inspector, or customs canine enforcement officer" after "law enforcement officer".

(e) INCLUSION OF OVERTIME PAY AS BASE PAY FOR CUSTOMS INSPECTORS AND CUSTOMS CANINE ENFORCEMENT OFFICERS.—Section 8331(3) of title 5, United States Code, is amended—

(1) in subparagraph (D) by striking out "and" after the semicolon;

(2) in subparagraph (E) by adding "and" after the semicolon;

(3) by inserting after subparagraph (E) the following new subparagraph:

"(F) with respect to a customs inspector or customs canine enforcement officer as defined under paragraphs (27) and (28), compensation for overtime under section 5542(a), but not to exceed 50 percent of any statutory maximum in overtime pay for customs inspectors or customs canine enforcement officers which is in effect for the year involved;"; and

(4) in the matter following subparagraph (F) (as added by paragraph (3) of this section) by striking out "and (E)" and inserting in lieu thereof "(E), and (F)".

(f) AGENCY CONTRIBUTIONS FOR CUSTOMS INSPECTORS AND CUSTOMS CANINE ENFORCEMENT OFFICERS.—Section 13031(f)(3)(A)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)(A)(i) is amended—

(1) by redesignating subclauses (IV) and (V) as subclauses (V) and (VI), respectively; and

(2) by inserting after subclause (III) the following new subclause:

"(IV) paying agency contributions to the Civil Service Retirement and Disability Fund to match contributions for customs inspectors and customs canine enforcement officers as defined under section 8331 (27) and (28), respectively, in accordance with the Customs Inspectors and Customs Canine Enforcement Officers Retirement Act of 1994;".

(g) OVERTIME AND PREMIUM PAY FOR CUSTOMS INSPECTORS AND CUSTOMS CANINE ENFORCEMENT OFFICERS.—

(1) OVERTIME PAY.—Section 5542(a)(4) of title 5, United States Code, is amended by inserting after "law enforcement officer" the following: "as defined under section 8331(20) or 8401(17), a customs inspector as defined under section 8331(27), and a customs canine enforcement officer as defined under section 8331(28)".

(2) LIMITATION ON PREMIUM PAY.—Section 5547(c) of title 5, United States Code, is amended—

(A) in paragraph (1) by inserting "a customs inspector as defined under section 8331(27) and customs canine enforcement officer as defined under section 8331(28)" after "law enforcement officer"; and

(B) in paragraph (2) by inserting "a customs inspector as defined under section 8331(27) and customs canine enforcement officer as defined under section 8331(28)" after "law enforcement officer".

(h) ADMINISTRATIVE PROVISIONS.—

(1) EMPLOYEE COVERAGE.—No later than 90 days after the effective date of this section, each customs inspector or customs canine enforcement officer shall make an irrevocable election to be covered under chapter 83 or 84 (as the case may be) as amended by this section.

(2) EMPLOYEE CONTRIBUTIONS.—Any individual who has served as a customs inspector or customs canine enforcement officer before the effective date of this section, shall have such service credited and annuities determined in accordance with the amendments made by this section, if such individual makes payment into the Civil Service Retirement and Disability Fund of an amount, determined by the Office of Personnel Management, which would have been deducted and withheld from the basic pay of such individual (including interest thereon) under chapters 83 and 84 of title 5, United States Code, as if such amendments had been in effect during the periods of such service.

(3) AGENCY CONTRIBUTIONS.—No later than 90 days after a payment made by an individual under paragraph (1), the Department of the Treasury shall make a payment into the Civil Service Retirement and Disability Fund of an amount, determined by the Office of Personnel Management, which would have been contributed as a Government contribution (including interest thereon) under chapters 83 and 84 of title 5, United States Code, for the service credited and annuities determined for such individual, as if the amendments made by this section had been in effect during the applicable periods of service.

(4) REGULATIONS.—The Office of Personnel Management shall determine the amount of interest to be paid under this section and may promulgate regulations to carry out the provisions of this section.

(i) RULE OF CONSTRUCTION.—No provision of this section or amendment made by this section shall be construed to provide for treatment of customs inspectors or canine enforcement officers of the United States Customs Service as law enforcement officers for any purpose other than as specifically provided in such provision or amendment.

(j) EFFECTIVE DATE.—The provisions of this section and amendments made by this section shall take effect on the date occurring 90 days after the date of enactment of this Act.

Mr. DECONCINI. Mr. President, this amendment I am offering will provide Customs inspectors and canine enforcement officers an opportunity to participate in the Law Enforcement Retirement System. The fact is, Mr. President, that this amendment provides only part of the status that these employees truly deserve, which is full recognition and benefits given to other Federal law enforcement officers. Few can argue against the facts and statistics which support this position, yet past attempts by myself and my colleagues to provide full law enforcement status have been unsuccessful, due solely to budgetary constraints. I am hopeful that in fairness, we might, at least provide this one benefit.

The Customs inspectors and canine officers, in their capacity as the first line of defense in the war on drugs, must work long, irregular hours and are frequently confronted with dangerous and stressful situations. A 1991 report by the Customs Inspector and Canine Officer Compensation Panel reported the following:

First, Customs inspectors and canine officers are assaulted more often than FBI, Secret Service, and Customs agents and U.S. marshals.

Second, in 1991 CI's and CEO's made 15,808 arrests, representing 73 percent of Customs' total number of arrests.

Third, in 1991 CI's and CEO's seized 71,705, 42 percent of Customs' total, pounds of cocaine and 2,870 pounds of heroin, 97 percent of Customs' total.

Fourth, only DEA and Bureau of Prisons officers are killed in the line of duty more frequently.

Fifth, in addition to U.S. Customs laws, they enforce over 1,600 laws for 60 agencies.

As stated in that 1991 report, "Customs inspectors constitute a vital part of the total enforcement function of the U.S. Customs Service." They carry firearms, make arrests, conduct inspections, and participate in seizures. Their duties are difficult and dangerous and most certainly take a physical and mental toll on an employee over the course of a long career. The duties require a vigorous and physically fit work force, especially in geographical areas which have large, active marine and air terminals and border crossing with high rates of entry and contraband smuggling, such as the Southwest border, New York City and Miami. New York, for example, employs 2,000 inspectors due to the high levels of activity. The New York district makes more heroin seizures than any other port in the country; processes more air passengers; and examines approximately 50 percent of the air cargo coming into this country. They would benefit by this amendment.

This amendment provides currently employed inspectors and officers with the opportunity to retain their current status and benefits or surrender their current overtime system, which is double time, to retire from the U.S. Customs Service under the same 20-year system as do Federal law enforcement officers. However, under this amendment, inspectors and canine officers entering service after enactment would enter under the Law Enforcement Retirement System and would no longer receive the current higher rate of overtime.

This option will ensure both the well-being of the employee and continued high level of competence provided by a young and vigorous work force in positions that are more physically and mentally challenging.

This provision is fundamentally cost neutral, in that, the employee choosing the early retirement will surrender a more costly form of overtime compensation which is funded by COBRA fees. The savings in COBRA fees will be redirected into the retirement account. In providing this option there is both a recognition of fiscal responsibility and concern for the safety and well-being of the employee.

The Customs inspectors and canine officers meet the criteria for law enforcement officer status and benefits. It is the cost for total law enforcement status and not their job description, duties, danger, or arrest authority, which has denied these individuals this recognition. The amendment I am proposing represents a fair, reasonable, and deserved, yet partial solution to this problem at little cost. These officers and inspectors have been passed over, unfairly, and deserve the same retirement benefit as other officers.

I urge the Members of this body to support this reasonable and inexpensive compromise in fairness to these inspectors and officers.

I thank my staff, particularly John Libonati, who is a fellow with us from one of the Federal agencies, for the time he has spent in putting together this amendment and working out the details, as well as the other members of the Appropriations Committee staff, and minority side, of course, for their effort to support this amendment.

This amendment has been cleared by the chairman of the Finance Committee. He has advised me personally that he has no objection to the amendment.

I urge Members to adopt this amendment.

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. BOND. 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. BOND. I thank the Chair.

Mr. President, there are no objections to this amendment on this side of the aisle. But I would note for the RECORD that Senator PACKWOOD, the ranking member of the Finance Committee, has expressed his concern that this is legislation within the jurisdiction of the Finance Committee.

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

The PRESIDING OFFICER. The Senator from Missouri suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DECONCINI. 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. DECONCINI. Mr. President, the pending amendment is what?

The PRESIDING OFFICER. The pending amendment is Amendment No. 1830.

Mr. DECONCINI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DECONCINI. Mr. President, is this the amendment dealing with revenue foregone?

The PRESIDING OFFICER. The amendment 1830 deals with Custom inspectors.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENT NO. 1822, AS MODIFIED

Mr. DECONCINI. Mr. President, I send a modification of amendment No. 1822 to the desk.

The PRESIDING OFFICER. The Senator has that right.

The amendment is so modified.

So the amendment (No. 1822) was modified, as follows:

At the end of Title VI, add the following new section:

SEC. . Section 3626 paragraph (j)(1) subparagraph (D) of Title 39 United States Code is amended by—

(a) deleting the final "." from (II) and adding "; and;"

(b) and adding—"(III) clause (i) shall not apply to space advertising in mail matter that otherwise qualifies for rates under former section 4452(b) or 4452(c) of this title, and satisfies the content requirements established by the Postal Service for periodical publications."

: *Provided*, That such changes in law shall take effect if the Congress does not enact legislation on this subject matter prior to Oct. 1, 1995: *Provided further*, That the Postal Service shall not implement any rule or regulation to enforce section 3626(j)(1)(D)(i) of title 39, United States Code, prior to September 30, 1995.

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

Mr. DECONCINI. Mr. President, this amendment deals with the so-called revenue foregone and has been worked out with the Senator from Alaska and the Senator from Missouri to deal with the authorizing committees' concern that they have an opportunity to address this in their committees.

It is self-explanatory. What it does here, in essence, is it says the Postal Service shall not implement any rule or regulation to enforce certain sections made reference there prior to September 30, 1995.

I ask adoption of the amendment.

Mr. BOND. No objection.

The PRESIDING OFFICER. Is there further debate on amendment No. 1822?

If not, the amendment is agreed to.

The amendment (No. 1822), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The Senator from Arizona suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. DECONCINI. Mr. President, I now ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein.

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

WHITEWATER HEARINGS

Mr. DOLE. Mr. President, earlier this afternoon, I received a letter from Republican leader BOB MICHEL, and Republican whip NEWT GINGRICH making clear that their recent agreement with the House Democrat leadership on Whitewater hearings was not meant as an endorsement of any effort to restrict the scope of these hearings.

When you are so outgunned, as the House Republicans often are with only 178 Members, it is not always possible to steer the House of Representatives in the direction you wish it to go. Compromises sometimes become necessary. As the Michel-Gingrich letter states:

* * * Given the rules of the House and our inability to openly amend legislation, there is little or no possibility of Republicans even offering on the House floor a proposal to have real, useful hearings on Whitewater. When the Democrat leadership, therefore, offered as the only potential for hearings being the House Banking Committee, we agreed.

I know that some of my colleagues on the other side of the aisle have attempted to use the House leadership agreement to bolster their own arguments for very limited Whitewater hearings. Today's letter from Representatives MICHEL and GINGRICH makes clear that House Republicans have not endorsed the limited-hearing approach. It is my hope that Senators will take the time to read the letter and, as a result, stop mischaracterizing the efforts of these two able House Republicans.

Mr. President, I ask unanimous consent that the letter be reprinted in the RECORD immediately after my remarks.

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

OFFICE OF THE REPUBLICAN LEADER,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 20, 1994.

Hon. ROBERT DOLE,
Senate Republican Leader, S-130, U.S. Capitol, Washington, DC.

DEAR BOB: Not surprisingly, some want to mischaracterize our bipartisan agreement on Whitewater hearings. Let us set the record straight.

We asked the Majority Leadership in January for extensive hearings and have regularly renewed that request. Last week we reaffirmed that desire and pointed out that the "Washington phase" of any Whitewater hearings probably amounts to less than five percent of any overall investigation. We do not intend to let the Democratic Leadership try to fool the American people into believing that all the questions about Whitewater will be put to rest by either Special Counsel Fiske or limited hearings on the "Washington phase."

As you are well aware, given the rules of the House and our inability to openly amend legislation, there is little or no possibility of Republicans even offering on the House floor a proposal to have real, useful hearings on Whitewater. When the Democrat Leadership, therefore, offered as the only potential for hearings being the House Banking Committee, we agreed.

Our agreement, however, should in no way be seen as a validation of the idea that these limited hearings are all that is necessary or all that the Constitution requires of the Congress. Regrettably, Chairman Gonzalez has informed his Leadership that he objects to several of the things in our agreement and believes further discussions are necessary. We can only guess at the outcome of those "discussions."

The public has the right to know exactly what occurred in Whitewater and the Congress has a responsibility to investigate. Only then can we decide the legislative remedies necessary to prevent further abuses.

We totally support the efforts made by you, Senator D'Amato and the rest of the Senate Republicans. The amendments you have offered to ensure that Whitewater hearings be useful and meaningful are the best hope of actually achieving hearings that fulfill the Constitutional responsibilities of Congress.

Given the same opportunity, we would be pursuing the same effort to inform the American people and to use the Congressional system of checks and balances to pursue the truth in our one-party government in Washington.

Please feel free to share this letter with your colleagues as you see fit.

Sincerely,

BOB MICHEL,
Republican Leader.
NEWT GINGRICH,
Republican Whip.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Order No. 975 and Calendar Order No. 976; 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.

Mr. BOND. No objection.

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

The nominations considered and confirmed en bloc are as follows:

NATIONAL COUNCIL ON DISABILITY

Bonnie O'Day, of Massachusetts, to be a Member of the National Council on Disability for a term expiring September 17, 1995.

NAVY

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 admiral

Adm. Charles R. Larson, 505-42-6639, U.S. Navy.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now 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.)

WORK AND RESPONSIBILITY ACT OF 1994—MESSAGE FROM THE PRESIDENT—PM 126

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which were referred to the Committee on Finance:

To the Congress of the United States:

I am pleased to transmit for your immediate consideration and enactment the "Work and Responsibility Act of 1994."

It is time to end welfare as we know it and replace it with a system that is based on work and responsibility—a system that will help people help themselves. This legislation reinforces the fundamental values of work, responsibility, family, and community. It rewards work over welfare. It signals that people should not have children until they are ready to support them, and that parents—both parents—who bring children into the world must take responsibility for supporting them. It gives people access to the skills they need and expects work in return. Most important, it will give people back the dignity that comes from work and independence. The cost of the proposal to the Federal Government is estimated at $9.3 billion over 5 years and is fully offset, primarily through reductions in entitlements and without new tax increases.

The Work and Responsibility Act of 1994 will replace welfare with work. Under this legislation, welfare will be about a paycheck, not a welfare check. Our approach is based on a simple compact designed to reinforce and reward work. Each recipient will be required to develop a personal employability plan designed to move that individual into the work force as quickly as possible. Support, job training, and child care will be provided to help people move from dependence to independence. Time limits will ensure that anyone who can work, must work—in the private sector if possible, in a temporary subsidized job if necessary.

This legislation includes several provisions aimed at creating a new culture of mutual responsibility. It includes provisions to promote parental responsibility and ensure that both parents contribute to their children's well-being. This legislation establishes the toughest child support enforcement program ever. It also includes: incentives directly tied to the performance of the welfare office; extensive efforts to detect and prevent welfare fraud; sanctions to prevent gaming of the welfare system; and a broad array of incentives that States can use to encourage responsible behavior.

Preventing teen pregnancy and out-of-wedlock births is a critical part of welfare reform. To prevent welfare dependency, teenagers must get the message that staying in school, postponing pregnancy, and preparing to work are the right things to do. Our prevention approach includes a national campaign against teen pregnancy and a national clearinghouse on teen pregnancy prevention. Roughly 1,000 middle and high schools in disadvantaged areas will receive grants to develop innovative teen pregnancy prevention programs.

The Work and Responsibility Act of 1994 proposes dramatic changes in our welfare system, changes so bold that they cannot be accomplished overnight. We can phase in these changes by focusing on young people, to send a clear message to the next generation that we are ending welfare as we know it. The bill targets resources on welfare beneficiaries born after December 31, 1971. This means that over time, more and more welfare beneficiaries will be affected by the new rules: about a third of the caseload in 1997, and half by the year 2000. States that want to phase in faster will have the option of doing so.

The results of these changes will be far-reaching. In the year 2000, 2.4 million adults will be subject to the new rules under welfare reform, including time limits and work requirements. Almost 1 million people will be either off welfare or working.

But the impact of welfare reform cannot be measured in these numbers alone. This legislation is aimed at strengthening families and instilling personal responsibility by helping people help themselves. We owe every child in America the chance to watch their parents assume the responsibility and dignity of a real job. This bill is designed to make that possible.

I urge the Congress to take prompt and favorable action on this legislation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 21, 1994.*

NATIONAL EMERGENCY WITH RESPECT TO THE ACTIONS OF THE FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO)—MESSAGE FROM THE PRESIDENT—PM127

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

On May 30, 1992, in Executive Order No. 12808, the President declared a national emergency to deal with the threat to the national security, foreign policy, and economy of the United States arising from actions and policies of the Governments of Serbia and Montenegro, acting under the name of the Socialist Federal Republic of Yugoslavia or the Federal Republic of Yugoslavia, in their involvement in and support for groups attempting to seize territory in Croatia and Bosnia-Herzegovina by force and violence utilizing, in part, the forces of the so-called Yugoslav National Army (57 FR 23299, June 2, 1992). The present report is submitted pursuant to 50 U.S.C. 1641 (c) and 1703 (c). It discusses Administration actions and expenses directly related to the exercise of powers and authorities conferred by the declaration of a national emergency in Executive Order No. 12808 and to expanded sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro) (the "FRY (S/M)") contained in Executive Order No. 12810 of June 5, 1992 (57 FR 24347, June 9, 1992), Executive Order No. 12831 of January 15, 1993 (58 FR 5253, January 21, 1993), and Executive Order No. 12846 of April 26, 1993 (58 FR 25771, April 27, 1993).

1. Executive Order No. 12808 blocked all property and interests in property of the Governments of Serbia and Montenegro, or held in the name of the former Government of the Socialist Federal Republic of Yugoslavia or the Government of the Federal Republic of Yugoslavia, then or thereafter located in the United States or within the possession or control of United States persons, including their overseas branches.

Subsequently, Executive Order No. 12810 expanded U.S. actions to implement in the United States the United Nations sanctions against the FRY (S/M) adopted in United Nations Security Council Resolution 757 of May 30, 1992. In addition to reaffirming the blocking of FRY (S/M) Government property, this order prohibits transactions with respect to the FRY (S/M) involving imports, exports, dealing in FRY-origin property, air and sea transportation, contract performance, funds transfers, activity promoting importation or exportation or dealings in property, and official sports, scientific, technical, or other cultural representation of, or sponsorship by, the FRY (S/M) in the United States.

Executive Order No. 12810 exempted from trade restrictions (1) transshipments through the FRY (S/M), and (2) activities related to the United Nations Protection Force ("UNPROFOR"), the Conference on Yugoslavia, or the European Community Monitor Mission.

On January 15, 1993, the President issued Executive Order No. 12831 to implement new sanctions contained in United Nations Security Council Resolution 787 of November 16, 1992. The order revoked the exemption for transshipments through the FRY (S/M) contained in Executive Order No. 12810, prohibited transactions within the United States or by a United States person relating to FRY (S/M) vessels and vessels in which a majority or controlling interest is held by a person or entity in, or operating from, the FRY (S/M), and stated that all such vessels shall be considered as vessels of the FRY (S/M), regardless of the flag under which they sail.

On April 26, 1993, I issued Executive Order No. 12846 to implement in the United States the sanctions adopted in United Nations Security Council Resolution 820 of April 17, 1993. That resolution called on the Bosnian Serbs to accept the Vance-Owen peace plan for Bosnia-Herzegovina and, if they failed to do so by April 26, called on member states to take additional measures to tighten the embargo against the FRY (S/M) and Serbian-controlled areas of Bosnia-Herzegovina and the United Nations protected areas in Croatia. Effective April 26, 1993, the order blocked all property and interests in property of commercial, industrial, or public utility undertakings or entities organized or located in the FRY (S/M), including property and interests in property of entities (wherever organized or located) owned or controlled by such undertakings or entities, that are or thereafter come within the possession or control of United States persons.

2. The declaration of the national emergency on May 30, 1992, was made pursuant to the authority vested in the President by the Constitution and laws of the United States, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergency Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3 of the United States Code. The emergency declaration was reported to the Congress on May 30, 1992, pursuant to section 204(b) of the International Emergency Economic Powers Act (50 U.S.C. 1703(b)). The additional sanctions set forth in Executive Orders Nos. 12810, 12831, and 12846 were imposed pursuant to the authority vested in the President by the Constitution and laws of the United States, including the statutes cited above, section 1114 of the Federal Aviation Act (49 U.S.C. App. 1514), and section 5 of the United Nations Participation Act (22 U.S.C. 287c).

3. There have been no amendments to the Federal Republic of Yugoslavia (Serbia and Montenegro) Sanctions Regulations (the "Regulations"), 31 C.F.R. Part 585, since the last report. Of the two court cases in which the blocking authority was challenged as applied to FRY (S/M) subsidiaries and vessels in the United States, the government's position in the case involving the blocked vessels was upheld by the Fifth Circuit Court of Appeals. The Supreme Court declined to review the decision. *Milena Ship Management Co.* v. *Newcomb*, 804 F. Supp. 859 (E.D. La. 1992), aff'd. 995 F.2nd 620 (5th Cir. 1993), cert. denied—U.S.—, 114 S.Ct. 877 (1994). The case involving a blocked subsidiary is pending a decision by the court on the government's motion for summary judgment.

4. Over the past 6 months, the Departments of State and Treasury have worked closely with European Community (the "EC") member states and other U.N. member nations to coordinate implementation of the sanctions against the FRY (S/M). This has included visits by assessment teams formed under the auspices of the United States, the EC, and the Conference for Security and Cooperation in Europe (the "CSCE") to states bordering on Serbia and Montenegro; deployment of CSCE sanctions assistance missions ("SAMs") to Albania, Bulgaria, Croatia, the Former Yugoslav Republic of Macedonia, Hungary, Romania, and Ukraine to assist in monitoring land and Danube River traffic; bilateral contacts between the United States and other countries for the purpose of tightening financial and trade restrictions on the FRY (S/M) and establishment of a mechanism to coordinate enforcement efforts and to exchange technical information.

5. In accordance with licensing policy and the Regulations, FAC has exercised

its authority to license certain specific transactions with respect to the FRY (S/M) that are consistent with the Security Council sanctions. During the reporting period, FAC has issued 114 specific licenses regarding transactions pertaining to the FRY (S/M) or assets it owns or controls, bringing the total as of April 15, 1994, to 677. Specific licenses have been issued (1) for payment to U.S. or third-country secured creditors, under certain narrowly defined circumstances, for pre-embargo import and export transactions; (2) for legal representation or advice to the Government of the FRY (S/M) or FRY (S/M)-controlled clients; (3) for the liquidation or protection of tangible assets of subsidiaries of FRY (S/M)-controlled firms located in the United States; (4) for limited FRY (S/M) diplomatic representation in Washington and New York; (5) for patent, trademark and copyright protection and maintenance transactions in the FRY (S/M) not involving payment to the FRY (S/M) Government; (6) for certain communications, news media, and travel-related transactions; (7) for the payment of crews' wages, vessel maintenance, and emergency supplies for FRY (S/M)-controlled ships blocked in the United States; (8) for the removal from the FRY (S/M) of certain property owned and controlled by U.S. entities; and (9) to assist the United Nations in its relief operations and the activities of the U.N. Protection Forces. Pursuant to regulations implementing United Nations Security Council Resolution 757, specific licenses have also been issued to authorize exportation of food, medicine, and supplies intended for humanitarian purposes in the FRY (S/M).

During the past 6 months, FAC has continued to oversee the liquidation of tangible assets of the 15 U.S. subsidiaries of entities organized in the FRY (S/M). Subsequent to the issuance of Executive Order No. 12846, all operating licenses issued for these U.S.-located Serbian or Montenegrin subsidiaries or joint ventures were revoked, and the net proceeds of the liquidation of their assets placed in blocked accounts.

The Board of Governors of the Federal Reserve Board and the New York State Banking Department again worked closely with FAC with regard to two Serbian banking institutions in New York that were not permitted to conduct normal business after June 1, 1992. The banks had been issued licenses to maintain a limited staff for audit purposes while full-time bank examiners were posted in their offices to ensure that banking records are appropriately safeguarded. Subsequent to the issuance of Executive Order No. 12846, all licenses previously issued were revoked. FAC is currently working with the Federal Reserve Board and the New York State Banking Department to resolve outstanding issues regarding the banks.

During the past 6 months, U.S. financial institutions have continued to block funds transfers in which there is an interest of the Government of the FRY (S/M) or an entity or undertaking located in or controlled from the FRY (S/M). Such transfers have accounted for $58.6 million in Yugoslav assets blocked since the issuance of Executive Order No. 12808, with some $22 million in funds transfers frozen during the past 6 months.

To ensure compliance with the terms of the licenses that have been issued under the program, stringent reporting requirements are imposed. More than 380 submissions were reviewed since the last report and more than 194 compliance cases are currently open. In addition, licensed bank accounts are regularly audited by FAC compliance personnel and by cooperating auditors from bank regulatory agencies.

6. Since the issuance of Executive Order No. 12810, FAC has worked closely with the U.S. Customs Service to ensure both that prohibited imports and exports (including those in which the Government of the FRY (S/M) has an interest) are identified and interdicted, and that permitted imports and exports move to their intended destination without undue delay. Violations and suspected violations of the embargo are being investigated and appropriate enforcement actions are being taken. There are currently 50 cases under active investigation. Since the last report, FAC has collected 20 civil penalties totaling nearly $75,000 from 17 financial institutions for violations involving transfers of funds in which the Government of the FRY (S/M) has an interest. Two U.S. companies and one law firm have also paid penalties related to exports and unlicensed payments to the Government of the FRY (S/M) for trademark registrations.

7. The expenses incurred by the Federal Government in the 6-month period from November 30, 1993, through May 29, 1994, that are directly attributable to the authorities conferred by the declaration of a national emergency with respect to the FRY (S/M) are estimated at about $3 million, most of which represent wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the FAC and its Chief Counsel's Office, and the U.S. Customs Service), the Department of State, the National Security Council, the U.S. Coast Guard, and the Department of Commerce.

8. The actions and policies of the Government of the FRY (S/M), in its involvement in and support for groups attempting to seize and hold territory in Croatia and Bosnia-Herzegovina by force and violence, continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. The United States remains committed to a multilateral resolution of this crisis through its actions implementing the binding resolutions of the United Nations Security Council with respect to the FRY (S/M).

I shall continue to exercise the powers at my disposal to apply economic sanctions against the FRY (S/M) as long as these measures are appropriate, and will continue to report periodically to the Congress on significant developments pursuant to 50 U.S.C. 1703(c).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 21, 1994.*

MESSAGES FROM THE HOUSE

At 2:16 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4554. An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1995, and for other purposes.

H.R. 4556. An Act making appropriations for the Department of Transportation, and related agencies for the fiscal year ending September 30, 1995, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 215. A Concurrent resolution honoring James Norton Hall and recognizing his outstanding contributions to the United States and the South Pacific.

At 6:28 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4568. An Act making supplemental appropriations for the Department of Housing and Urban Development for the fiscal year ending September 30, 1994, and for other purposes.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4277) to establish the Social Security Administration as an independent agency and to make other improvements in the old-age, survivors, and disability insurance program; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon: and appoints Mr. GIBBONS, Mr. ROSTENKOWSKI, Mr. PICKLE, Mr. JACOBS, Mr. FORD of Tennessee, Mr. ARCHER, Mr. BUNNING, and Mr. SANTORUM as managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4278) to make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act; it agrees to the conference asked by the Senate on the disagreeing

votes of the two Houses thereon: and appoints Mr. GIBBONS, Mr. ROSTENKOWSKI, Mr. PICKLE, Mr. JACOBS, Mr. FORD of Tennessee, Mr. ARCHER, Mr. BUNNING, and Mr. SANTORUM as managers of the conference on the part of the House.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 24) to reauthorize the independent counsel law for an additional 5 years, and for other purposes.

The message further announced that pursuant to the provisions of section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616) as amended by section 2(d) of Public Law 102-586, the Speaker appoints the following individuals from private life to the Coordinating Council on Juvenile Justice and Delinquency Prevention on the part of the House: Mr. Gordon A. Martin, Jr., of Roxbury, MA, to a 3-year term; Mr. Michael J. Mahoney of Chicago, IL, to a 2-year term; and Ms. Mary Ann Murphy of Spokane, WA, to a 1-year term.

That pursuant to the provisions of section 204(a) of the Older Americans Act of 1965 (42 U.S.C. 3015(a)), as amended by section 205 of Public Law 102-375, the Speaker reappoints to the Federal Council on the Aging for a 3-year term on the part of the House the following member from private life: Mrs. Josephine K. Oblinger of Williamsville, IL.

That pursuant to the provisions of section 114(b) of Public Law 100-458, the Speaker appoints to the Board of Trustees for the John C. Stennis Center for Public Service Training and Development the following Member on the part of the House to fill the existing vacancy thereon: Mr. LEWIS of Georgia.

That pursuant to the provisions of section 204 of the Older Americans Act Amendments of 1987, as amended by section 834 of Public Law 102-375, the Speaker selects the following Members of the House to serve on the Policy Committee of the White House Conference on Aging on the part of the House: Mr. MARTINEZ, Mr. JACOBS, Mr. HUGHES, and Mrs. MORELLA.

That pursuant to the provisions of section 9355(a) of title 10, United States Code, the Speaker appoints as Members of the Board of Visitors to the U.S. Air Force Academy the following Members on the part of the House: Mr. DICKS, Mr. HOAGLAND, Mr. HEFLEY, and Mr. YOUNG of Florida.

That pursuant to the provisions of section 6968(a) of title 10, United States Code, the Speaker appoints as Members of the Board of Visitors to the U.S. Naval Academy the following Members on the part of the House: Mr. HOYER, Mr. MFUME, Mrs. BENTLEY, and Mr. SKEEN.

That pursuant to the provisions of section 4355(a) of title 10, United States Code, the Speaker appoints as Members of the Board of Visitors to the U.S. Military Academy the following Members on the part of the House: Mr. HEFNER, Mr. LAUGHLIN, Mr. FISH, and Mr. DELAY.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following bill:

S. 1904. An Act to amend title 38, United States Code, to improve the organization and procedures of the Board of Veterans' Appeals.

The enrolled bill was subsequently signed by the President pro tempore (Mr. BYRD).

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4554. An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1995, and for other purposes; to the Committee on Appropriations.

H.R. 4556. An Act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1995, and for other purposes; to the Committee on Appropriations.

The following measure was read and referred to the Committee on Foreign Relations:

H. Con. Res. 215. Concurrent resolution honoring James Norman Hall and recognizing his outstanding contributions to the United States and the South Pacific.

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-2879. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the Warren Station Externally Fired Combined Cycle Demonstration Project; to the Committee on Energy and Natural Resources.

EC-2880. A communication from the Secretary of the Interior, transmitting, pursuant to law, notice of the intention to award a specific watershed restoration contract; to the Committee on Energy and Natural Resources.

EC-2881. A communication from the Secretary of the Interior, transmitting, a draft of proposed legislation entitled "Anaktuvuk Pass Exchange and Wilderness Redesignation Act of 1994"; to the Committee on Energy and Natural Resources.

EC-2882. A communication from the Secretary of Energy, transmitting, pursuant to law, notice of a delay relative to the report entitled "Adequacy of Management Plans for the Future Generation of Spent Nuclear Fuel and High-Level Radioactive Waste"; to the Committee on Environment and Public Works.

EC-2883. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the audit of the Principal Financial Statements of the U.S. Customs Service for fiscal year 1993; to the Committee on Finance.

EC-2884. A communication from the Acting General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to improve coordination of benefits information by sharing health insurance information from the Medicare and Medicaid Coverage Data Bank; to the Committee on Finance.

EC-2885. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals, dated June 1, 1994; pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition and Forestry, the Committee on Armed Services, the Committee on Banking, Housing and Urban Affairs, the Committee on Commerce, Science and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on Foreign Relations, the Committee on Governmental Affairs, the Committee on the Judiciary, and the Committee on Small Business.

EC-2886. A communication from the Secretary of Education, transmitting, pursuant to law, notice of final regulations for Rehabilitation Long-Term Training; to the Committee on Labor and Human Resources.

EC-2887. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the annual report for calendar year 1993; to the Committee on Rules and Administration.

EC-2888. A communication from the Acting General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to amend title 38, United States Code, to authorize servicemen's Group Life Insurance for members of the Retired Reserve of a uniformed service who have not received the first increment of retired pay or have not yet reached sixty-one years of age and who have been transferred to the Retired Reserve under the temporary special retirement qualification authority provided by section 1331a of title 10, United States Code; to the Committee on Armed Services.

EC-2889. A communication from the Administrator of the Federal Aviation Administration, transmitting, pursuant to law, a report relative to the Traffic Alert and Collision Avoidance System; to the Committee on Commerce, Science and Transportation.

EC-2890. A communication from the Federal Co-Chairman of the Appalachian Regional Commission, transmitting, pursuant to law, the semiannual report of the Inspector General for the period October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2891. A communication from the Administrator of the General Services Administration, transmitting, a draft of proposed legislation to amend chapter 57 of title 5, United States Code, to provide a system for setting the maximum mileage allowances for reimbursement to an employee for the use of a privately owned vehicle while engaged on official Government Business; to the Committee on Governmental Affairs.

EC-2892. A communication from the Chairman of the Board for International Broadcasting, transmitting, pursuant to law, the

semiannual report of the Inspector General for the period of October 1, 1993, through March 30, 1994; to the Committee on Governmental Affairs.

EC-2893. A communication from the Director of the Administrative Office of the United States Courts, transmitting, pursuant to law, the actuarial reports on the Judicial Retirement System, the Judicial Officers' Retirement Fund, the Judicial Survivors' Annuities System, and the Court of Federal Claims Judges' Retirement System for fiscal year 1993; to the Committee on Governmental Affairs.

EC-2894. A communication from the Secretary of Veterans Affairs, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2895. A communication from the Secretary of Labor, transmitting, pursuant to law, the semiannual reports of the Inspector General and the Executive Director of the Pension Benefit Guaranty Corporation for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2896. A communication from the Administrator of the Small Business Administration, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2897. A communication from the Chairman and General Counsel of the National Labor Relations Board, transmitting, pursuant to law, the semiannual report of the Inspector General for the period October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2898. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report relative to an audit of the District of Columbia's Public School's Central Investment Fund; to the Committee on Governmental Affairs.

EC-2899. A communication from the Chairman of the Equal Employment Opportunity Commission, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2900. A communication from the Secretary of the Smithsonian Institution, transmitting, pursuant to law, the semiannual report of the Inspector General for the period October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2901. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the semiannual report of the Inspector General for the period October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2902. A communication from the Chief Operating Office/President of the Resolution Funding Corporation, transmitting, pursuant to law, a report relative to the Corporation's internal controls and audited financial statements; to the Committee on Governmental Affairs.

EC-2903. A communication from the General Counsel of the Department of Commerce, transmitting, a draft of proposed legislation to provide the Secretary of Commerce with the authority to share the address lists of the Bureau of the Census with the United States Postal Service and Federal, State, and local officials when it is required for the efficient and economical conduct of censuses and surveys; to the Committee on Governmental Affairs.

EC-2904. A communication from the General Counsel of the Department of Commerce, transmitting, a draft of proposed legislation to change the census date for the 2000 decennial census and subsequent censuses; to the Committee on Governmental Affairs.

EC-2905. A communication from the Acting Administrator of the Agency for International Development, transmitting, pursuant to law, the semiannual report of the Inspector General and the semiannual report on audit management for the period from October 1, 1993, to March 31, 1994; to the Committee on Governmental Affairs.

EC-2906. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report relative to the District's public schools' vendor delivery verification process; to the Committee on Governmental Affairs.

EC-2907. A communication from the Chairman of the Interstate Commerce Commission, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2908. A communication from the Department of Education, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2909. A communication from the Chief Executive Officer of the Corporation for National and Community Service, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2910. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2911. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2912. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2913. A communication from the Chairman of the National Endowment for the Arts, transmitting, pursuant to law, the semiannual report of the Inspector General and the semiannual report on final action for the period from October 1, 1993, through March 31, 1994, to the Committee on Governmental Affairs.

EC-2914. A communication from the Secretary of Education, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2915. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2916. A communication from the Secretary of Labor, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2917. A communication from the Secretary of the Interior, transmitting, pursuant to law, the semiannual report of the Inspector General and the Secretary's report on audit followup for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2918. A communication from the Deputy and Acting CEO of the Resolution Trust Corporation and the Chairman of the Thrift Depositor Protection Oversight Board, transmitting, pursuant to law, the semiannual report of the Inspector General of the Resolution Trust Corporation for the period October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2919. A communication from the Chairman of the National Credit Union Administration, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993 through March 31, 1994; to the Committee on Governmental Affairs.

EC-2920. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2921. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2922. A communication from the Director of the Peace Corps, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2923. A communication from the Chairman of the Consumer Product Safety Commission, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2924. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report relative to an audit of the Boxing and Wrestling Commission for fiscal years 1991, 1992 and 1993; to the Committee on Governmental Affairs.

EC-2925. A communication from the Chairman of the Board of Directors of the Panama Canal Commission, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2926. A communication from the Director of the United States Information Agency, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2927. A communication from the Attorney General of the United States, transmitting, pursuant to law, the semiannual management report for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2928. A communication from the Director of the Information Security Oversight Office, transmitting, pursuant to law, the Office's "Report for the President" for 1993; to the Committee on Governmental Affairs.

EC-2929. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the Administrator's semiannual management report for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2930. A communication from the Secretary of Energy, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2931. A communication from the Secretary of Housing and Urban Development's designee to the Federal Housing Finance Board, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2932. A communication from the Director of the Norfolk Naval Shipyard Co-operative Association, transmitting, pursuant to law, the annual report of the Association relative to Federal pension plan for 1992; to the Committee on Governmental Affairs.

EC-2933. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the 1993 annual report indicating the Commission's compliance with the Government in the Sunshine Act; to the Committee on Governmental Affairs.

EC-2934. A communication from the Chairman of the National Science Board, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2935. A communication from the Chairman of the Board of Directors of the Corporation for Public Broadcasting, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2936. A communication from the Secretary of Commerce, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. LEAHY, from the Committee on Agriculture, Nutrition and Forestry:

Marilyn Fae Peters, of South Dakota, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation;

Sheila C. Bair, of Kansas, to be a Commissioner of the Commodity Futures Trading Commission for the remainder of the term expiring April 13, 1995;

Mary L. Schapiro, of the District of Columbia, to be a Commissioner of the Commodity Futures Trading Commission for the term expiring April 13, 1999;

Mary L. Schapiro, of the District of Columbia, to be Chairman of the Commodity Futures Trading Commission; and

Doyle Cook, of Washington, to be a Member of the Farm Credit Administration Board, Farm Credit Administration, for the term expiring May 21, 1998.

(The above nominations were approved subject to the nominees' commitment to appear and testify before any duly constituted committee of the Senate.)

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

*General Michael P. C. Carns, USAF to be placed on the retired list in the grade of general (Reference No. 1237)

*Lieutenant General Bradley C. Hosmer, USAF to be placed on the retired list in the grade of lieutenant general (Reference No. 1238)

*Lieutenant General Thomas G. McInerney, USAF to be placed on the retired list in the grade of lieutenant general (Reference No. 1239)

*Lieutenant General Alexander M. Sloan, USAF to be placed on the retired list in the grade of lieutenant general (Reference No. 1240)

*Lieutenant General Michael A. Nelson, USAF to be placed on the retired list in the grade of lieutenant general (Reference No. 1254)

*General Charles A. Horner, USAF to be placed on the retired list in the grade of general (Reference No. 1314)

*Vice Admiral William J. Flanagan, Jr., USN to be admiral (Reference No. 1341)

*General J. H. Binford Peay III, USA for reappointment to the grade of general (Reference No. 1371)

*Real Admiral (Selectee) Jay L. Johnson, USN to be vice admiral (Reference No. 1373)

*General Walter E. Boomer, USMC to be placed on the retired list in the grade of general (Reference No. 1383)

*General Joseph P. Hoar, USMC to be placed on the retired list in the grade of general (Reference No. 1384)

*Lieutenant General William M. Keys, USMC to be placed on the retired list in the grade of lieutenant general (Reference No. 1387)

*Lieutenant General Henry C. Stackpole III, USMC to be placed on the retired list in the grade of lieutenant general (Reference No. 1388)

*General Robert C. Oaks, USAF to be placed on the retired list in the grade of general (Reference No. 1432)

*Major General Paul E. Stein, USAF to be lieutenant general (Reference No. 1435)

*Lieutenant General John E. Jackson, Jr., USAF to be placed on the retired list in the grade of lieutenant general (Reference No. 1453)

*Lieutenant General Peter A. Kind, USA to be placed on the retired list in the grade of lieutenant general (Reference No. 1456)

*Lieutenant General Donald M. Lionetti, USA to be placed on the retired list in the grade of lieutenant general (Reference No. 1457)

*Major General Anthony C. Zinni, USMC to be lieutenant general (Reference No. 1458)

Total: 19.

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. LEAHY (for himself, Mr. INOUYE, Mr. LUGAR, Mr. MITCHELL, Mr. MOYNIHAN, Mr. ROBB, Mr. SIMPSON, Mr. DODD, Mrs. FEINSTEIN, Mr. METZENBAUM, Mrs. KASSEBAUM, Mr. SASSER, Mr. DASCHLE, Mr. GRAHAM, Mr. CHAFEE, Mr. DECONCINI, Mr. SIMON, Ms. MIKULSKI, Mr. FEINGOLD, Mr. SPECTER, Mr. BINGAMAN, Mr. KERRY, Mr. KERREY, Mr. PELL, Mr. EXON, Mr. FORD, Mr. KOHL, Mr. WELLSTONE, Mr. BUMPERS, Mr. WOFFORD, Mr. MATHEWS, Mr. SARBANES, Mr. JEFFORDS, Mrs. BOXER, Mr. AKAKA, Mr. HATFIELD, Mr. HARKIN, Mr. RIEGLE, Mr. DORGAN, Mr. KENNEDY, Mr. LAUTENBERG, Mrs. MURRAY, Ms. MOSELEY-BRAUN, Mr. ROCKEFELLER, Mr. BRADLEY, Mr. DURENBERGER, Mr. REID, Mr. BIDEN, Mr. CONRAD, Mr. GLENN, Mr. CAMPBELL, Mr. PRYOR, Mr. BAUCUS, Mr. LIEBERMAN, and Mr. BRYAN):

S. 2216. A bill to state the sense of Congress on the production, possession, transfer, and use of anti-personnel landmines, to place a moratorium on United States production of anti-personnel landmines, and for other purposes; to the Committee on Armed Services.

By Mrs. FEINSTEIN (for herself and Mr. FEINGOLD):

S. 2217. A bill to restrict accompanied tours for the Armed Forces personnel assigned to Europe; to the Committee on Armed Services.

By Mr. GLENN (for himself and Mr. AKAKA):

S. 2218. A bill to provide authorization of appropriations for the Federal Emergency Food and Shelter Program for the fiscal years 1995 and 1996; to the Committee on Governmental Affairs.

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 2219. A bill to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to improve natural gas and hazardous liquid pipeline safety, in response to the natural gas pipeline accident in Edison, New Jersey, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. PELL (by request):

S. 2220. A bill to provide for a United States contribution to the Inter-American Development Bank, and for other purposes; to the Committee on Foreign Relations.

S. 2221. A bill to implement the obligations of the United States under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, known as "the Chemical Weapons Convention" and opened for signature and signed by the United States on January 13, 1993; to the Committee on Foreign Relations.

By Mr. MITCHELL (for himself, Mr. COHEN, Mr. LEAHY, and Mr. JEFFORDS):

S. 2222. A bill to grant the consent of Congress to the Texas Low-Level Radioactive Waste Disposal Compact; to the Committee on the Judiciary.

By Mr. KOHL (for himself and Mr. FEINGOLD):

S. 2223. A bill to amend title 10, United States Code, to authorize the Secretary of Defense to provide assistance to promote public participation in defense environmental restoration activities; to the Committee on Armed Services.

By Mr. MOYNIHAN (for himself, Mr. MITCHELL, Mr. BREAUX, Mr. DASCHLE, Mr. DODD, Mr. KENNEDY, and Mr. ROCKEFELLER) (by request):

S. 2224. A bill to amend the Social Security Act, the Food Stamp Act of 1977, and other relevant statutes to redesign the program of aid to families with dependent children to establish a program that provides time-limited, transitional assistance, prepares individuals for and requires employment, prevents dependency, and overhauls the child support enforcement mechanism at both the Federal and State levels, and for other purposes; to the Committee on Finance.

By Mrs. BOXER:

S. 2225. A bill to direct the Secretary of the Interior to conduct a salmon captive broodstock program; to the Committee on Environment and Public Works.

By Mr. HATFIELD:

S. 2226. A bill to designate a site for the relocation of the public facility of the National Museum of Health and Medicine, and for other purposes; to the Committee on Armed Services.

By Mr. LAUTENBERG (for himself and Mr. MITCHELL):

S. 2227. A bill to amend the Solid Waste Disposal Act to provide congressional authorization of State control over transportation of municipal solid waste, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LIEBERMAN:

S. Con. Res. 71. A concurrent resolution to require enactment of a resolution by the appropriate House of Congress for each capital improvement project in the United States Capitol area with an estimated total cost greater than $3,000,000; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY (for himself, Mr. INOUYE, Mr. LUGAR, Mr. MITCHELL, Mr. MOYNIHAN, Mr. ROBB, Mr. SIMPSON, Mr. DODD, Mrs. FEINSTEIN, Mr. METZENBAUM, Mrs. KASSEBAUM, Mr. SASSER, Mr. DASCHLE, Mr. GRAHAM, Mr. CHAFEE, Mr. DECONCINI, Mr. SIMON, Ms. MIKULSKI, Mr. FEINGOLD, Mr. SPECTER, Mr. BINGAMAN, Mr. KERRY, Mr. KERREY, Mr. PELL, Mr. EXON, Mr. FORD, Mr. KOHL, Mr. WELLSTONE, Mr. BUMPERS, Mr. WOFFORD, Mr. MATHEWS, Mr. SARBANES, Mr. JEFFORDS, Mrs. BOXER, Mr. AKAKA, Mr. HATFIELD, Mr. HARKIN, Mr. RIEGLE, Mr. DORGAN, Mr. KENNEDY, Mr. LAUTENBERG, Mrs. MURRAY, Ms. MOSELEY-BRAUN, Mr. ROCKEFELLER, Mr. BRADLEY, Mr. DURENBERGER, Mr. REID, Mr. BIDEN, Mr. CONRAD, Mr. CAMPBELL, Mr. PRYOR, Mr. BAUCUS, Mr. LIEBERMAN, and Mr. BRYAN):

S. 2216. A bill to state the sense of Congress on the production, possession, transfer, and use of antipersonnel landmines, to place a moratorium on United States production of antipersonnel landmines, and for other purposes; to the Committee on Armed Services.

LANDMINE PRODUCTION MORATORIUM ACT

Mr. LEAHY. Mr. President, I have spoken a number of times on the floor of the U.S. Senate about the scourge of landmines throughout the world.

Last week I spoke about Ken Rutherford, an American from Colorado, who lost part of his leg from a landmine in Somalia. I also spoke of Fred Downs, an American veteran who lost his arm from an American landmine in Vietnam. They are two of the tens of thousands of Americans, mostly veterans from past wars including the Persian Gulf war, who have been either killed or maimed by landmines.

They are also among the hundreds of thousands of people—over 1,200 each month of each year, mostly innocent civilians, who lose their lives, or an arm, a leg or their eyesight from landmines.

Last month, UNICEF—the United Nations Childrens Fund—issued a report entitled "Anti-personnel Landmines: A Scourge on Children." That report describes, in horrifying detail, how landmines are shattering the lives of children in over 60 countries. Let me read just one entry in the UNICEF report:

> One 6 year old Somali boy had picked up an object that looked like the plastic top of a thermos bottle on a road near his home. The explosion blinded him in both eyes, scarred his face, destroyed his right hand, which was later amputated at the wrist, and left both knees crippled with shrapnel injuries.

That boy was one of tens of thousands like him who have been permanently maimed by landmines. They are considered the lucky ones. They survived. According to UNICEF, landmines are killing and maiming more children than soldiers.

Mr. President, one would think we would do everything possible to stop this outrage. If American children walking to school were getting their arms and legs blown off, you can bet we would have all 100 Senators doing everything possible to stop it. That is what is going on all over the world today in country after country after country.

Last year, the United States enacted a moratorium on exports of antipersonnel landmines. In an extraordinary vote, all 100 Senators voted for that moratorium. That vote was noticed around the world, and at least 8 other countries have followed our example and announced their own moratoria on landmine exports.

Our leadership led to U.N.-sponsored talks in Geneva to seek international limits on the production, use, and export of landmines. During the next year those talks will either produce real results that will begin to stop the landmine slaughter, or a piece of paper with a lot of signatures that make people feel good but accomplishes nothing.

The fact that these negotiations are happening at all is because people everywhere want to see something done about landmines. They have seen too many photographs of children missing an arm or a leg, or both, like this one.

Look at this young boy, Mr. President. A young boy who should be out playing and enjoying life and looking forward to a bright future. What kind of future does he have in a country like Nicaragua, with an arm and a leg missing? Think of this happening in over 60 countries, 1,200 times a month. Mr. President, there is no doubt in my mind that the outcome of these international negotiations will depend upon what we do here. If we show leadership, if we set an example and challenge other countries, we may be able to begin to stop this.

We are not going to see a ban on landmines any time soon, but we can make the difference between posturing and real progress. We can do that by making a bold gesture ourselves as Americans, by showing we are serious, and then pressuring other countries to join us.

That is why today I am introducing legislation to impose a moratorium, for 12 months, on the production of antipersonnel landmines by the United States to show the rest of the world that it can be done. Its purpose is to challenge other countries, and it calls on the President to seek similar action from major landmine producers, like Italy, Pakistan, Russia, France, South Africa, and Great Britain.

As with any arms control initiative, I can already hear some people across the Potomac saying that a 12-month moratorium on antipersonnel landmines is going to leave our troops defenseless, the troops of the most powerful Nation on Earth. So, before a lot of people run over from the Pentagon to say we are about to unilaterally disarm, let me tell you what this legislation does not do.

It does not in any way limit the use of landmines by American troops.

It does not in any way affect U.S. stockpiles of mines, and I would encourage each Senator to ask the Army how many landmines they have in warehouses today.

It does not cover Claymore mines, which are command detonated and account for almost half of the antipersonnel mines we produce.

It does not cover antitank mines, which were used so effectively against Saddam Hussein, but which do not trigger from the pressure of a child's footstep.

Nor is it the slippery slope the Army is forever using as an excuse to oppose practically every arms control measure ever proposed. This is a crucial year. The U.N. negotiations will decide how

these weapons are dealt with for years to come.

Mr. President, every 15 minutes of every day of every week of every month of every year, a landmine explodes and kills or horribly maims some unsuspecting person.

Maybe it is an Italian mine. Or a Russian mine. Or maybe it is an American mine. There are at least six types of American mines littering Cambodia, which has more amputees per capita than anywhere else. There are 6 or 8 million unexploded landmines in that small country.

Mr. President, who needs anti-personnel landmines more—the United States, or Third World countries where they have become the cheap weapon of choice and where our troops will be sent either as U.N. peacekeepers or in combat and where Americans go as medical personnel facing the danger of these weapons. A $5 landmine, hidden by a layer of dust, can blow the leg off a well-trained American soldier equipped with the most sophisticated weaponry as easily as snapping your fingers.

This legislation falls far short of the total ban many are calling for. But it is a step that we, by far the most powerful Nation in the world, can afford to take during this crucial year. A year from now I suspect we will know if we made any difference. If the negotiations fail, at least let them fail not because of the United States, not because we did not show moral leadership. But if they succeed, I have not the slightest doubt that it will be because the United States decided to do something meaningful about a scourge that the State Department says "may be the most toxic and widespread pollution facing mankind."

Mr. President, I ask unanimous consent that my legislation, the Landmine Production Moratorium Act, and the names of the 53 original cosponsors, be printed in the RECORD.

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

S. 2216

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

SECTION 1. FINDINGS.

The Congress makes the following findings:

(1) There are approximately 100,000,000 unexploded anti-personnel landmines strewn in more than 60 countries around the world, and tens of millions of anti-personnel landmines are stored in stockpiles. The Department of State reports that "landmines may be the most toxic and widespread pollution facing mankind".

(2) Like chemical and biological weapons, landmines kill and maim indiscriminately.

(3) After the United States adopted a unilateral moratorium on the export of anti-personnel landmines, the United Nations General Assembly unanimously called for an international moratorium on such exports, and the Governments of France, Germany, Greece, Belgium, the Netherlands, Poland, Slovakia, and South Africa have announced export moratoria. The Government of Cambodia has stated that it will no longer use or purchase anti-personnel landmines.

(4) Despite such actions, far more anti-personnel landmines are being strewn than are being cleared. Each month, at least 1,200 persons, mostly innocent civilians, are killed or injured by landmines. In some countries, more than one-third of all casualties of anti-personnel landmines are women and children.

(5) With hundreds of types of anti-personnel landmines being produced in at least 50 countries, only international cooperation on limits on the production, possession, transfer, and use of anti-personnel landmines will stop the slaughter of innocent lives.

(6) A United Nations conference to review the 1980 Conventional Weapons Convention, including Protocol II to the Convention (otherwise known as the Landmine Protocol), is planned for 1995. Meetings of governmental experts to prepare for the conference have begun. This is a critical time for United States leadership to help solve the landmine crisis.

SEC. 2. POLICY.

It is the sense of Congress that the President should—

(1) actively seek an international agreement prohibiting the production, possession, transfer, and use of anti-personnel landmines; and

(2) as interim measures to be pursued during the seeking of such prohibitions, actively seek international agreements, modifications of the 1980 Conventional Weapons Convention, or other agreements or arrangements to limit further the production, possession, transfer, and use of anti-personnel landmines.

SEC. 3. MORATORIUM ON THE PRODUCTION AND PROCUREMENT OF ANTI-PERSONNEL LANDMINES.

(A) SENSE OF CONGRESS.—It is the sense of Congress that a moratorium by the United States on the purchase and production of anti-personel landmines would encourage other nations to adopt similar measures.

(b) MORATORIUM.—Effective 90 days after the date of the enactment of this Act, the United States Government shall not purchase or produce anti-personnel landmines.

(c) PERIOD OF MORATORIUM.—The prohibition set forth in subsection (b) shall continue until the end of the one-year period beginning on the date of the enactment of this Act.

(d) ACTIONS BY OTHER NATIONS.—(1) The Congress urges the President, during the period referred to in subsection (c), to encourage each nation which is a major producer of anti-personnel landmines to adopt a moratorium similar to the moratorium described in subsection (b).

(2) If the President determines during the period referred to in subsection (c) that nations that are major producers of anti-personnel landmines have adopted moratoria similar to the moratorium described in subsection (b), the President may extend the moratorium for such additional time as the President considers appropriate.

(3) For the purposes of this subsection, the term "major producers of anti-personnel landmines" shall include the following:

(A) Belgium
(B) Bulgaria
(C) The Peoples Republic of China
(D) Egypt
(E) France
(F) Germany
(G) Hungary
(H) Italy
(I) Pakistan
(J) Russia
(K) South Africa
(L) The United Kingdom

SEC. 4. AUTHORIZATION OF FUNDS FOR DEMINING ACTIVITIES.

Of the funds authorized by an Act authorizing appropriations for military activities of the Department of Defense, $10,000,000 are authorized to support humanitarian activities relating to the clearing and disarming of landmines and the protection of civilians from landmines (including activities relating to the furnishing of education, training, technical assistance, demining equipment and technology and activities relating to research and development on demining equipment and technology) and for contributions to United Nations agencies and programs and to nongovernmental organizations to support such activities, and $10,000,000 are authorized for efforts to improve landmine detection and neutralization.

SEC. 5. ANALYSIS AND ASSESSMENT OF COSTS AND EFFECTS OF ANTI-PERSONNEL LANDMINES.

(a) ANALYSIS.—(1) Not later than 180 days after the date of the enactment of this Act, the Administrator of the Agency for International Development and the Secretary of State shall jointly submit to Congress a joint report containing a quantitative and qualitative analysis of the social, economic, and environmental costs and effects of the use of anti-personnel landmines.

(2) The analysis shall cover not less than three countries (as jointly determined by the Administrator and the Secretary) in which the presence of landmines presents significant social, economic, and environmental problems.

(3) In preparing the report, the Administrator and the Secretary shall rely on any appropriate governmental and nongovernmental materials and sources of information that are available to them.

(b) ASSESSMENT.—(1) The Secretary of Defense shall submit to Congress a report setting forth the total number of members of the United States Armed Forces killed or wounded by anti-personnel landmines during each of the following periods:

(A) World War II.
(B) The Korean conflict.
(C) The Vietnam era.
(D) The Persian Gulf War.

(2) The Secretary of Defense shall submit the report under this subsection at the same time that the report required under subsection (a) is submitted.

SEC. 6. DEFINITIONS.

For purposes of this Act:

(1) The term "anti-personnel landmine" means any of the following:

(A) Any munition placed under, on, or near the ground or other surface area, delivered by artillery, rocket, mortar, or similar means, or dropped from an aircraft and which is designed, constructed, adapted, or designed to be adapted to be detonated or exploded by the presence, proximity, or contact of a person.

(B) Any device or material which is designed, constructed, adapted, or designed to be adapted to kill or injure and which functions unexpectedly when a person disturbs or approaches an apparently harmless object or performs an apparently safe act.

(2) The term "1980 Conventional Weapons Convention" means the 1980 Conventional Weapons Convention on Production or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed To Be

Excessively Injurious or To Have Indiscriminate Effects, done at New York on April 10, 1981.

ORIGINAL COSPONSORS OF THE LANDMINE PRODUCTION MORATORIUM ACT

Senators Inouye, Lugar, Mitchell, Moynihan, Robb, Simpson, Dodd, Feinstein, Metzenbaum, and Kassebaum.

Senators Sasser, Daschle, Graham, Chafee, DeConcini, Simon, Mikulski, Feingold, Specter, and Bingaman.

Senators Kerry, Kerrey, Pell, Exon, Ford, Kohl, Wellstone, Bumpers, Wofford, and Mathews.

Senators Sarbanes, Jeffords, Boxer, Akaka, Hatfield, Harkin, Riegle, Dorgan, Kennedy, and Lautenberg.

Senators Murray, Moseley-Braun, Rockefeller, Bradley, Durenberger, Reid, Biden, Conrad, Glenn, and Campbell.

Senators Pryor, Baucus, Lieberman, and Bryan.

By Mrs. FEINSTEIN (for herself and Mr. FEINGOLD):

S. 2217. A bill to restrict accompanied tours for the Armed Forces personnel assigned to Europe; to the Committee on Armed Services.

LEGISLATION RESTRICTING ACCOMPANIED TOURS FOR ARMED FORCES PERSONNEL

• Mrs. FEINSTEIN. Mr. President, today, on behalf of myself and Senator FEINGOLD, I am introducing legislation that would require the Department of Defense to adopt short, unaccompanied tours for the majority of U.S. troops stationed in Europe.

Currently, most U.S. troops are deployed in Europe for 3-year tours and are usually accompanied by their families. As a result, the Pentagon—and U.S. taxpayers—must pay for dependents' moving expenses as well as other costs associated with their stay overseas.

Most U.S. personnel abroad are stationed in Europe. Although the number of military personnel in Europe has decreased in the aftermath of the cold war, the costs of supporting dependents there remains high. With approximately the same number of dependents as there are enlisted personnel stationed in Europe, those costs total hundreds of millions of dollars each year. Taxpayers are footing the bill for—among other things—housing, schools, commissaries, hospitals, and family centers.

A 1989 Rand study found there were many problems associated with dependents living abroad. Among them:

Dealing with their safety in time of crisis;

Helping spouses to find employment;

Allocating sufficient funds to maintain quality-of-life services—especially given that such services are used as much as 65 percent more overseas than at home; and

Assisting families to care for their children while abroad.

And almost as importantly, the Congressional Budget Office estimates that $1.5 billion could be saved by limiting tours in Europe to 1 year, rotating personnel more often and reducing the number of family members who accompany troops overseas. These savings could be used to help reduce the budget deficit or to fund other important Department of Defense priorities.

Although this bill would require that the majority of troops be assigned to 1-year unaccompanied tours, the Secretary of Defense would have the discretion to allow some key personnel to be assigned for longer periods of time, and to be accompanied by their families.

Short, unaccompanied tours for military personnel is not a new idea. In some places, like South Korea—where there are housing shortages and other factors to consider—U.S. troops have already been successfully limited to 1-year tours without dependents.

Critics of shorter unaccompanied tours have argued that separating soldiers and officers from their families lowers morale and could have a negative impact on military units and retention.

However, a survey of military personnel conducted by the Department of Defense last year found that although an individual officer's moral may be lowered by family separation, there was absolutely no impact on unit morale.

I agree that unaccompanied tours could have an impact on retention. But with current reductions in the numbers of military personnel as a result of the post-cold-war drawdown, this should not have an impact on the readiness of our forces.

Critics also have argued that shorter tours mean that soldiers will be reassigned more frequently, thus impacting readiness. However, the Congressional Budget Office has said that transferring whole units which are cohesive and have trained together—as opposed to only individual troops—offsets that problem.

Also, it is clear that in South Korea—where shorter, unaccompanied tours are standard—readiness is not a problem. In fact there is no other area of the world where U.S. troops are on a higher state of alert. This is even more true now, with North Korea attempting to develop a nuclear bomb, and Kim Il-song saying he will turn Seoul into a "sea of fire."

The Korean situation also offers a good illustration of one of the major benefits of unaccompanied tours—we will not have to worry about protecting or evacuating thousands of families if war suddenly engulfs the peninsula. Clearly fewer vulnerable dependents equates to greater military flexibility.

With the end of the cold war and the number of U.S. troops being reduced to as few as 100,000 in Europe by 1995, adopting short, unaccompanied tours makes sense. It saves money while maintaining an adequate military presence overseas.

I urge my colleagues to support this legislation. I now ask unanimous consent that the full text of this bill and a CBO report be printed in the RECORD.

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

S. 2217

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

SECTION 1. ACCOMPANIED TOURS FOR ARMED FORCES PERSONNEL ASSIGNED TO EUROPE.

(a) PAYMENT FOR DEPENDENTS.—

(1) RESTRICTION.—Subject to paragraph (2)—

(A) no travel and transportation expenses may be paid for dependents to accompany members of the Armed Forces of the United States assigned to permanent duty ashore in Europe; and

(B) no funds may be expended for support of dependents accompanying members of the Armed Forces of the United States assigned to permanent duty ashore in Europe.

(2) WAIVER AUTHORITY.—

(A) ESSENTIAL PERSONNEL.—The Secretary of Defense may waive the application of paragraph (1) to a member of the Armed Forces if the Secretary determines that the assignment of that member to permanent duty ashore in Europe for a period of more than one year is necessary in order to ensure the continuity of effective conduct of necessary activities of the Armed Forces of the United States in Europe.

(B) NATIONAL SECURITY INTERESTS.—The Secretary of Defense may waive the application of paragraph (1) when necessary in the national security interests of the United States.

(b) SHORT TOURS.—It is the sense of Congress that the period of assignment of a member of the Armed Forces to permanent duty ashore in Europe should not exceed one year.

CONGRESSIONAL BUDGET OFFICE REPORT—MARCH 1994

ADOPT SHORT, UNACCOMPANIED TOURS FOR EUROPE

[In millions of dollars]

	Annual savings [1]					Cumulative 5-year savings
	1995	1996	1997	1998	1999	
Budget authority	240	240	240	400	410	1,530
Outlays	220	220	210	370	400	1,420

[1] Savings from CBO baseline and CBO estimate of administration's plan.

Under current policy, military personnel in Europe generally remain for tours of three years and may be accompanied by their families. The U.S. government pays for the moving expenses of dependents (spouses and children) and for other costs associated with their stay in Europe. In 1990, about 310,000 military personnel were located in Europe along with some 317,000 dependents. By 1993, the number of military personnel in Europe had decreased to 167,000 with a similar number of dependents. Accompanied tours require that DoD maintain a large support infrastructure in Europe, including schools for dependents, commissaries, hospitals, family centers, and family housing. In countries like South Korea, where housing shortages and other factors make it difficult to support families, most personnel are assigned for only one year without their families.

This option assumes adoption of one-year unaccompanied tours in Europe for almost

all U.S. military personnel assigned there. Longer, accompanied tours would still be permitted for a few key personnel who need to remain overseas longer to ensure continuity in U.S. operations. This change would be phased in over three years, starting in 1995. When fully in effect, the new policy should permit elimination of all overseas schools for dependents, family centers, family housing, and some commissaries and other support facilities. The added costs associated with moving military personnel more often would be offset by savings in other areas. Together, these actions would reduce overseas support costs by $240 million in 1995 and by a total of $1.5 billion through 1999, compared with costs under the CBO baseline. This option is consistent with the Clinton Administration's plans to limit U.S. troops in Europe to 100,000 by 1995 and to maintain the current troop level in Korea.

Additional savings not reflected in these estimates might eventually be realized if the number of hospitals and other facilities that cater to dependents can be reduced. However, there could be greater costs, also not reflected in the estimates, for federal Impact Aid for schools in U.S. localities where military dependents would increase in number.

This option would primarily affect personnel in the Army and Air Force, who accounted for more than 90 percent of U.S. military personnel in Europe at the end of 1993. Even though many—perhaps as many as half—of the positions in Europe could be filled by unmarried personnel, the shift to short, unaccompanied tours would increase the portion of married Army and Air Force personnel serving without their families. By 1997, that share would rise from today's level of about 8 percent to about 12 percent, which is the current level for Navy and Marine Corps personnel. However, the share of Army personnel serving without their families would be almost double current levels, but still only one-third higher than the rates typical for Navy personnel.

Coupled with the increased disruptions associated with the ongoing drawdown of U.S. military forces, this increase in time away from their families might cause some Army and Air Force personnel to leave the military. Although such departures would be unlikely to cause shortages of skilled personnel during the current drawdown, lower retention could be a problem in the future. Shorter tours would also increase turnover among personnel in Europe, which could adversely affect readiness by reducing the amount of time units train together. Finally, some headquarters or support positions could require the continuity provided by longer tours.

Some of the problems associated with shorter tours could be minimized by the force drawdown or policy changes. The Congress has mandated a reduction of troops in Europe of about 65 percent between 1990 and 1995, compared with the 25 percent decrease in overall forces. As a result, fewer military personnel will face the prospect of unaccompanied tours, thus reducing any negative effects on retention. To counter the effect of higher turnover on readiness, entire units rather than individuals could be rotated; in this way, individuals would already be accustomed to operating as a unit. Finally, for those positions that require continuity, longer accompanied tours could be permitted with special provisions for educational and other support.

Adverse effects of unaccompanied tours would be further reduced if U.S. forces in Europe were cut even more. Some military analysts and policy makers have suggested that 50,000 or 75,000 U.S. military personnel in Europe may be adequate in view of the greatly diminished threat to European security posed by the republics of the former Soviet Union. Moreover, if only a small force was stationed in Europe, the per capita cost of maintaining schools, commissaries, and other support facilities would grow sharply, thereby encouraging a shift to unaccompanied tours.•

By Mr. GLENN (for himself and Mr. AKAKA):

S. 2218. A bill to provide authorization of appropriations for the Federal Emergency Food and Shelter Program for the fiscal years 1995 and 1996; to the Committee on Governmental Affairs.

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM REAUTHORIZATION

• Mr. GLENN. Mr. President, today I am introducing legislation to reauthorize the Emergency Food and Shelter Board Program. This bill would reauthorize the Emergency Food and Shelter National Board Program at its current reauthorization level of $187,560,000 million for fiscal years 1995 and 1996.

The Emergency Food and Shelter National Board Program was first created on March 24, 1983, through the jobs stimulus bill Public Law 98–8. The bill initially provided $50 million for emergency food and shelter to FEMA for allocation by a National Board between March 1983 and March 1984. Because the need for these emergency food and shelter services persisted and, in fact, grew, funds continued to be appropriated to the program through the mid-1980's. In July 1987, the Stewart B. McKinney Homeless Assistance Act Public Law 100–77, authorized the Emergency Food and Shelter National Board Program for assistance to counties in every State.

The Emergency Food and Shelter [EFS] National Board Program is chaired by the Federal Emergency Management Agency [FEMA] and includes representatives of various national nonprofits, such as the United Way of America, the Salvation Army, the National Council of Churches of Christ in the U.S.A., Catholic Charities, USA, the Council of Jewish Federations, Inc., and the American Red Cross. The National Board brings Federal agencies, State entities, and local nonprofit groups together in a unique and highly successful effort to assist those most in need. In addition to the dedication and experience of FEMA and these nonprofit, EFS has become a model McKinney program by adhering to five operation principles: speedy administration and funding, award to areas of greatest need, local decision-making, public/private sector cooperation, and minimum but accountable reporting.

This program's funds are distributed on a formula basis, straight to emergency shelters, soup kitchens, and other nonprofit groups in every State. Because each locality has a local board mirroring the structure of the national board, EFS funds are allocated quickly. Last year, within three months, EFS has already paid out 95 percent of its funds. And, unlike what happens in most programs, a negligible percentage of the National Board's funds are spent on administrative costs. Because each nonprofit organization raises almost all of its own funds for administration, last year, EFS only spent 1.4 percent of its funds on administration.

As chairman of the Governmental Affairs Committee, I know the importance of this program. While this program was never intended per se to address or correct structural poverty or longstanding problems, EFS continues to assist many people through the emergency shelters and feeding programs and homeless prevention activities which it funds. While some may debate that the national housing and hunger emergency which spurned EFS no longer exists, this is not so. A housing and hunger emergency can strike a person at any time.

On June 14, 1994, Dr. Dennis P. Culhane of the University of Pennsylvania testified before the Committee on Governmental Affairs regarding his recent study of the homeless population in New York and Philadelphia. Dr. Culhane found that contrary to popular belief, most homeless people are not chronically homeless. In fact, the large majority of homeless in this country became temporarily homeless due to temporary housing emergencies, usually caused by job loss and eviction. EFS is one of the few McKinney programs which helps this population before they lose their jobs and homes and become homeless. In addition to emergency shelters, EFS can help people remain in their homes through the aid of homeless prevention activities, such as emergency cash assistance and eviction prevention. By aiding individuals and families before they become homeless, EFS can save people from the disruption of family, work, and education that homelessness can impose.

EFS addresses the needs of hunger, as well as shelter. In a recent study on hunger in the United States, Second Harvest found that a staggering 10.4 percent of the population—25,970,319 Americans, of which 11,141,267 were under age 18—rely on food pantries, soup kitchens, homeless shelters, and other emergency feeding programs for food. I would point out that almost half of these 26 million people did not expect to need assistance 3 months prior to visiting the food pantries, a fact which speaks to how quickly a food and housing emergency can strike American families. Studies such as those of Dr. Culhane and Second Harvest prove that the need for programs like EFS still exists.

Mr. President, I believe that in light of the need for emergency services and

the past success of the EFS program under FEMA, we must reauthorize this program. While I am not proposing any increase in the reauthorization level for fiscal years 1995 and 1996, I would hope that the appropriations for this program could be brought up to the authorization level. At a time when people continue to face crises unimagined in their own lives and when the very services we have provided so far are, in some cases, the only hope they see for survival, we cannot and must not turn our backs and do nothing. I urge my colleagues to join with me in cosponsoring and passing this vital legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2218

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

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 322 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11352) is amended to read as follows:

"SEC. 322. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $187,560,000 for each of fiscal years 1995 and 1996.".●

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 2219. A bill to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to improve natural gas and hazardous liquid pipeline safety, in response to the natural gas pipeline accident in Edison, NJ, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATURAL GAS PIPELINE SAFETY IMPROVEMENT ACT OF 1994

● Mr. LAUTENBERG. Mr. President, today I am introducing the Natural Gas Pipeline Safety Improvement Act of 1994. This bill will dramatically decrease the chances of pipeline accidents and reduce the risks that those who live, work, or go to school in the vicinity of a pipeline are currently exposed to.

This bill is designed to prevent disasters like the one which occurred on the evening of March 23 in Edison, NJ. The whole Nation witnessed the ball of fire over Edison in the wake of the explosion. Every American who saw that image on television shuddered.

All too often, when a disaster happens, people focus on it for a few days and then shift their attention to other events. That has not happened in the wake of the Edison explosion and will not happen. We can't afford to let it. And neither Senator BRADLEY or Congressman PALLONE, who represents Edison, or I will allow it to just fade away.

I won't let it happen because I saw the destruction in Edison after the explosion. It was devastating to the families involved and traumatic to all residents of my State, which is crisscrossed with similar pipelines. I have also seen the psychological problems it created. I have talked to the families who lost everything but the clothes on their backs. I have seen the emotional fallout—the children and adults who replay the events of that evening each and every night before they drift into a fitful sleep.

Edison is not an isolated event. Since that terrible night of March 23, there have been other pipeline problems. And there were events that preceded it. My major concern is what happened in Edison, but we must make sure that it doesn't happen in any community, to any American.

Senator BRADLEY and I believe that if this bill had been law before that fateful night in March things could have been very different.

Let me briefly describe the five major elements of our legislation.

First, we want to beef up compliance with existing laws by making sure that we conduct regular oversight inspections of corporations with pipeline operations around the country.

Our bill authorizes the U.S. Department of Transportation to recoup the cost of accident investigations from pipeline companies so that these regular inspections are not interrupted when personnel and resources from the Office of Pipeline Safety are diverted to investigate a major pipeline failure.

Second, we want to prevent accidents before they happen. Our legislation will increase funding to States to advertise one-call notification systems and expand the DOT role in pipeline safety to include pipeline safety awareness programs.

One-call notification systems require contractors to learn the location of underground facilities before they dig.

Third, we need to have an adequate data base so we can cope with the potential problems we face. Our bill directs the Secretary to establish an electronic data system on existing pipelines.

This system will provide information on the nature, extent, and geographic location of pipeline facilities in order to facilitate risk assessment and safety planning with respect to such facilities.

Fourth, we need to target attention to areas where the greatest potential threat exists. Our proposal will increase inspection and siting requirements for pipelines in high density population areas. It would also recruit residents in the vicinity of a pipeline to report suspicious dumping or digging on a pipeline right-of-way.

Finally, we need to have stronger punishment to deter negligent or willful violations of law. Our bill would make it a Federal crime to illegally dump on pipeline rights-of-way and mandate the installation and use of remotely controlled shut-off valves.

This legislation is an initial response to the pipeline problem. We need to explore other solutions and that process is ongoing.

Secretary Peña has been enormously responsive in the wake of this disaster. Shortly after the explosion, when we toured the site, he pledged to develop a comprehensive response. Together, we laid out a series of steps the U.S. Department of Transportation could take immediately to prevent future disasters. The Secretary has been a man of his word.

Already, Secretary Peña has requested more resources to provide better regulatory monitoring and oversight of our Nation's pipeline system. I intend to fund that effort in this year's transportation appropriations bills. He also approved a $1.2 million grant to the New Jersey Institute of Technology to advance research in pipeline safety, as well as, direct his Office of Pipeline Safety to undertake a complete assessment of potential safety risks of gas pipeline in our State.

At that time, Secretary Peña also agreed to my request to bring experts on pipelines and pipeline safety together to discuss ways to improve the system. As a result of his commitment, and the hard work of the Department of Transportation's Office of Pipeline Safety, yesterday a pipeline safety summit was held in New Jersey.

The summit was designed to develop a public/private agenda that establishes priorities for pipeline safety initiatives and identifies the next steps needed to make them a reality.

The report developed from the suggestions at this summit will form a blueprint for action. Secretary Peña will submit them in legislative form to me for presentation to the Congress. I expect that report, including additional legislative proposals, in the next couple of months.

In the meantime, I would like to remind my colleagues that no State in the union is exempt from the type of disaster that happened in Edison, N.J. I would encourage all of my colleagues to examine and cosponsor the Natural Gas Pipeline Safety Improvement Act of 1994.

Mr. President, I ask unanimous consent that the text of the Natural Gas Pipeline Safety Improvement Act of 1994 be printed in the RECORD.

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

S. 2219

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 "Natural Gas Pipeline Safety Improvement Act of 1994".

SEC. 2. RECOVERY BY SECRETARY OF TRANSPORTATION OF COSTS OF INVESTIGATION OF CERTAIN PIPELINE ACCIDENTS.

(a) NATURAL GAS PIPELINE ACCIDENTS.—Section 14 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1681) is amended by adding at the end the following:

"(g)(1)(A) Subject to paragraphs (2) and (3), the Secretary may recover from any person who engages in the transportation of gas, or who owns or operates pipeline facilities, the costs incurred by the Secretary—

"(i) in investigating an accident with respect to such transportation or facilities; and

"(ii) in overseeing the response of the person to the accident.

"(B) For the purposes of this paragraph, the costs incurred by the Secretary in an investigation of an accident may include the cost of hiring additional personnel (including personnel to support monitoring activities by the Office of Pipeline Safety), the cost of tests or studies, and travel and administrative costs associated with the investigation.

"(2) The Secretary may not recover costs under this subsection with respect to an accident unless the accident—

"(A) results in death or personal injury; or

"(B) results in property damage (including the cost of any lost natural gas) and environmental damage (including the cost of any environmental remediation) in an amount in excess of $250,000.

"(3) The amount that the Secretary may recover under this subsection with respect to an accident may not exceed $500,000.

"(4)(A) Amounts recovered by the Secretary under this subsection shall be available to the Secretary for purposes of the payment of the costs of investigating and overseeing responses to accidents under this subsection. Such funds shall be available to the Secretary for such purposes without fiscal year limitation.

"(B) Such amounts shall be used to supplement and not to supplant other funds made available to the Secretary for such purposes.".

(b) HAZARDOUS LIQUID PIPELINE ACCIDENTS.—Section 211 of the Hazardous Liquid Pipeline Safety Act of 1979 (title II of Public Law 96–129; 49 U.S.C. App. 2010) is amended by adding at the end the following:

"(g)(1)(A) Subject to paragraphs (2) and (3), the Secretary may recover from any person who engages in the transportation of hazardous liquids, or who owns or operates pipeline facilities, the costs incurred by the Secretary—

"(i) in investigating an accident with respect to such transportation or facilities; and

"(ii) in overseeing the response of the person to the accident.

"(B) For the purposes of this paragraph, the costs incurred by the Secretary in an investigation of an accident may include the cost of hiring additional personnel (including personnel to support monitoring activities by the Office of Pipeline Safety), the cost of tests or studies, and travel and administrative costs associated with the investigation.

"(2) The Secretary may not recover costs under this subsection with respect to an accident unless the accident—

"(A) results in death or personal injury; or

"(B) results in property damage (including the cost of any lost hazardous liquid) and environmental damage (including the cost of any environmental remediation) in an amount in excess of $250,000.

"(3) The amount that the Secretary may recover under this subsection with respect to an accident may not exceed $500,000.

"(4)(A) Amounts recovered by the Secretary under this subsection shall be available to the Secretary for purposes of the payment of the costs of investigating and overseeing responses to accidents under this subsection. Such funds shall be available to the Secretary for such purposes without fiscal year limitation.

"(B) Such amounts shall be used to supplement and not to supplant other funds made available to the Secretary for such purposes.".

SEC. 3. GRANTS TO STATES AND ONE-CALL NOTIFICATION SYSTEMS TO PROMOTE USE OF SUCH SYSTEMS.

(a) GRANTS TO STATES.—Subsection (c) of section 20 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1687) is amended by adding at the end the following: "The Secretary may make a grant to a State for development and establishment of a one-call notification system only if the State ensures that the cost of establishing and operating the system are shared equitably by persons owning or operating underground facilities.".

(b) GRANTS TO SYSTEMS.—Such subsection is further amended—

(1) by striking "GRANTS TO STATES.—" and inserting "GRANTS TO STATES AND SYSTEMS.—(1)"; and

(2) by adding at the end the following:

"(2)(A) The Secretary may also make grants to one-call notification systems for activities relating to the promotion of the utilization of such systems.

"(B) The Secretary shall ensure that the Federal share of the cost of the activities referred to in subparagraph (A) under any grant made under this paragraph does not exceed 50 percent of the cost of such activities.".

(c) SANCTIONS.—Subsection (b)(9) of such section is amended by inserting ", or that would provide for effective civil or criminal penalty sanctions or equitable relief appropriate to the nature of the offense" after "12 of this Act".

(d) CONFORMING AMENDMENT.—Subsection (f) of such section is amended by striking out "subsection (c)" and inserting in lieu thereof "subsection (c)(1)".

SEC. 4. PREVENTION OF DAMAGE TO PIPELINE FACILITIES.

(a) NATURAL GAS PIPELINE FACILITIES.—Section 14(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1681(a)) is amended by inserting after "and training activities" the following: "and promotional activities relating to prevention of damage to pipeline facilities".

(b) HAZARDOUS LIQUID PIPELINE FACILITIES.—Section 211(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (title II of Public Law 96–129; 49 U.S.C. App. 2010(a)) is amended by inserting after "and training activities" the following: "and promotional activities relating to prevention of damage to pipeline facilities".

SEC. 5. ELECTRONIC DATA ON PIPELINE FACILITIES FOR RISK ASSESSMENT AND SAFETY PLANNING.

(a) AUTHORITY TO DEVELOP.—The Secretary of Transportation may develop an electronic data base containing uniform information on the nature, extent, and geographic location of pipeline facilities. The purpose of the data base shall be to provide information on such facilities to the Secretary, owners of pipeline facilities, as persons engaged in transporting gas or hazardous liquids through pipeline facilities, and for secured use by State agencies concerned with land use planning, environmental regulation, and pipeline regulatory oversight, in order to facilitate risk assessment and safety planning with respect to such facilities.

(b) CONTRACT AND GRANT AUTHORITY.—(1) Subject to paragraph (2), the Secretary may develop the data base described under subsection (a) by entering into contracts or cooperative agreements with any entity that the Secretary determines appropriate for that purpose and by making grants to States or institutions of higher education for that purpose.

(2) The Secretary shall ensure that the Federal share of the cost of any activities carried out under a grant or cooperative agreement made under this subsection does not exceed 50 percent of the cost of such activities.

(c) USE OF GEOGRAPHIC INFORMATION SYSTEM TECHNOLOGY.—In developing the data base described in subsection (a), the Secretary shall, to the maximum extent practicable, develop a data base that—

(1) utilizes Geographic Information System technology or any similar technology providing data of an equivalent quality and usefulness; and

(2) permits ready incorporation of data and information from a variety of sources.

(d) DEFINITION.—For purposes of this section, the term "pipeline facility" has the meaning given such term in section 20(e) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1687(e)).

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) NATURAL GAS PIPELINE SAFETY ACT OF 1968.—(1) Section 17(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(a)) is amended—

(A) in paragraph (12), by striking "and";

(B) by striking paragraph (13); and

(C) by adding after paragraph (12) the following new paragraphs:

"(13) $20,000,000 for the fiscal year ending September 30, 1995;

"(14) $30,000,000 for the fiscal year ending September 30, 1996; and

"(15) $35,000,000 for the fiscal year ending September 30, 1997.".

(2) Section 17(c) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(c)) is amended by striking "and $10,000,000 for the fiscal year ending September 30, 1995" and inserting in lieu thereof "$16,500,000 for the fiscal year ending September 30, 1995, $19,000,000 for the fiscal year ending September 30, 1996, and $21,500,000 for the fiscal year ending September 30, 1997".

(b) HAZARDOUS LIQUID PIPELINE SAFETY ACT OF 1979.—Section 214(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2013(a)) is amended—

(1) in paragraph (12), by striking "and";

(2) by striking paragraph (13); and

(3) by adding after paragraph (12) the following new paragraphs:

"(13) $7,000,000 for the fiscal year ending September 30, 1995;

"(14) $10,000,000 for the fiscal year ending September 30, 1996; and

"(15) $11,000,000 for the fiscal year ending September 30, 1997.".

SEC. 7. SITING OF INTERSTATE TRANSMISSION FACILITIES.

(a) SITING GUIDELINES.—Within 2 years after the date of enactment of this Act, the Federal Energy Regulatory Commission shall review its practices and guidelines for siting natural gas interstate transmission facilities in urban areas to determine whether changes are needed in the areas of—

(1) selecting routes for pipelines; and

(2) determining the appropriate width of rights-of-way.

(b) EDUCATIONAL INFORMATION FOR LOCAL JURISDICTIONS.—(1)(A) Within 2 years after the date of enactment of this Act, the Secretary, in consultation with the Federal Energy Regulatory Commission, shall make educational information available, regarding natural gas interstate transmission facilities permits and rights-of-way and issues with respect to development in the vicinity of such interstate transmission facilities, for distribution to appropriate agencies of local governments with jurisdiction over the lands through which natural gas interstate transmission facilities pass.

(B) For purposes of this section, the term "interstate transmission facilities" has the meaning given such term in section 2(8) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671(8)).

(2)(A) Within 2 years after the date of enactment of this Act, the Secretary shall make educational information available, regarding hazardous liquid interstate pipeline facilities rights-of-way and issues with respect to development in the vicinity of such interstate pipeline facilities, for distribution to appropriate agencies of local governments with jurisdiction over the lands through which hazardous liquid interstate pipeline facilities pass.

(B) For purposes of this paragraph, the term "interstate pipeline facilities" has the meaning given such term in section 202(5) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001(5)).

(3) There are authorized to be appropriated to the Secretary of Energy for carrying out this subsection, $2,000,000, to remain available until expended.

SEC. 8. DUMPING WITHIN PIPELINE RIGHTS-OF-WAY.

(a) NATURAL GAS PIPELINE SAFETY ACT OF 1968.—

(1) AMENDMENT.—The Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671 et seq.) is amended by adding at the end the following new section:

"SEC. 22. DUMPING WITHIN PIPELINE RIGHTS-OF-WAY.

"(a) PROHIBITION.—No person shall excavate within the right-of-way of a natural gas interstate transmission facility, or any other limited area in the vicinity of such interstate transmission facility established by the Secretary, and dispose solid waste therein.

"(b) DEFINITION.—For purposes of this section, the term 'solid waste' has the meaning given such term in section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).".

(2) CONFORMING AMENDMENT.—Section 11(a)(1) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1679a(a)(1)) is amended by striking "or section 20(h)" and inserting in lieu thereof ", section 20(h), or section 22(a)".

(b) HAZARDOUS LIQUID PIPELINE SAFETY ACT OF 1979.—

(1) AMENDMENT.—The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001 et seq.) is amended by adding at the end the following new section:

"SEC. 221. DUMPING WITHIN PIPELINE RIGHTS-OF-WAY.

"(a) PROHIBITION.—No person shall excavate within the right-of-way of a hazardous liquid interstate pipeline facility, or any other limited area in the vicinity of such interstate pipeline facility established by the Secretary, and dispose solid waste therein.

"(b) DEFINITION.—For purposes of this section, the term 'solid waste' has the meaning given such term in section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).".

(2) CONFORMING AMENDMENT.—Section 208(a)(1) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2007(a)(1)) is amended by inserting "or section 221(a)" after "section 207(a)".

SEC. 9. PERIODIC INSPECTION BY INSTRUMENTED INTERNAL INSPECTION DEVICES.

(a) NATURAL GAS PIPELINE SAFETY ACT OF 1968.—Section 3(g)(2) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672(g)(2)) is amended—

(1) by striking "Not later than 3 years after the date of the enactment of this paragraph" and inserting in lieu thereof "Not later than 1 year after the date of the enactment of the Natural Gas Pipeline Safety Improvement Act of 1994"; and

(2) in the first sentence, by inserting "and shall prescribe a schedule or schedules for such inspections" after "operator of the pipeline".

(b) HAZARDOUS LIQUID PIPELINE SAFETY ACT OF 1979.—Section 203(k)(2) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002(k)(2)) is amended—

(1) by striking "Not later than 3 years after the date of the enactment of this paragraph" and inserting in lieu thereof "Not later than 1 year after the date of the enactment of the Natural Gas Pipeline Safety Improvement Act of 1994"; and

(2) in the first sentence, by inserting "and shall prescribe a schedule or schedules for such inspections" after "operator of the pipeline".

SEC. 10. PROMOTING PUBLIC AWARENESS FOR NEIGHBORS OF PIPELINES.

(a) NATURAL GAS PIPELINE SAFETY ACT OF 1968.—Section 18 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1685) is amended by adding at the end the following new subsections:

"(c) PROMOTING PUBLIC AWARENESS FOR NEIGHBORS OF PIPELINES.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter, the owner or operator of each interstate transmission facility shall notify all residents within 1000 yards, or such other distance as the Secretary determines appropriate, of such interstate transmission facility of—

"(1) the general location of the interstate transmission facility;

"(2) a request for reporting of any instances of excavation or dumping on or near the interstate transmission facility;

"(3) a phone number to use to make such reports; and

"(4) appropriate procedures for such residents to follow in response to accidents concerning interstate transmission facilities.

"(d) PUBLIC EDUCATION.—The Secretary shall develop, in conjunction with appropriate representatives of the natural gas pipeline industry, public service announcements to be broadcast or published to educate the public about pipeline safety.".

(b) HAZARDOUS LIQUID PIPELINE SAFETY ACT OF 1979.—Section 212 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2011) is amended by adding at the end the following new subsections:

"(e) PROMOTING PUBLIC AWARENESS FOR NEIGHBORS OF PIPELINES.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter, the owner or operator of each interstate pipeline facility shall notify all residents within 1000 yards, or such other distance as the Secretary determines appropriate, of such interstate pipeline facility of—

"(1) the general location of the interstate pipeline facility;

"(2) a request for reporting of any instances of excavation or dumping on or near the interstate pipeline facility;

"(3) a phone number to use to make such reports; and

"(4) appropriate procedures for such residents to follow in response to accidents concerning interstate pipeline facilities.

"(f) PUBLIC EDUCATION.—The Secretary shall develop, in conjunction with appropriate representatives of the hazardous liquid pipeline industry, public service announcements to be broadcast or published to educate the public about pipeline safety.".

SEC. 11. REMOTELY OR AUTOMATICALLY CONTROLLED VALVES.

Section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672) is amended by adding at the end the following new subsection:

"(l) REMOTELY OR AUTOMATICALLY CONTROLLED VALVES.—Not later than 18 months after the date of enactment of this subsection, the Secretary shall issue regulations requiring the installation and use, wherever technically and economically feasible, of remotely or automatically controlled valves that are reliable and capable of shutting off the flow of gas in the event of an accident, including accidents in which there is a loss of the primary power source. In developing proposed regulations, the Secretary shall consult with, and give special consideration to recommendations of, appropriate groups from the gas pipeline industry, such as the Gas Research Institute.".

SEC. 12. BASELINE INFORMATION.

(a) NATURAL GAS PIPELINE SAFETY ACT OF 1968.—Section 3(g) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672(g)) is amended by adding at the end the following new paragraph:

"(3) BASELINE INFORMATION.—Before transporting natural gas through a pipeline which, because of its design, construction, or replacement, is required by regulations issued under paragraph (1) to accommodate the passage of instrumented internal inspection devices, the owner or operator of such pipeline shall, using such a device, obtain baseline information with respect to the safety of the pipeline.".

(b) HAZARDOUS LIQUID PIPELINE SAFETY ACT OF 1979.—Section 203(k) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002(k)) is amended by adding at the end the following new paragraph:

"(3) BASELINE INFORMATION.—Before transporting hazardous liquids through a pipeline which, because of its design, construction, or replacement, is required by regulations issued under paragraph (1) to accommodate the passage of instrumented internal inspection devices, the owner or operator of such pipeline shall, using such a device, obtain baseline information with respect to the safety of the pipeline.".●

By Mr. PELL (by request):

S. 2220. A bill to provide for a United States contribution to the Inter-American Development Bank, and for other purposes; to the Committee on Foreign Relations.

U.S. CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

● Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to provide for a U.S. contribution to the Inter-American Development Bank, and for other purposes.

This proposed legislation has been requested by the Department of the Treasury, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the general counsel of the Department of the Treasury, which was received on April 29, 1994.

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

S. 2220

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Inter-American Development Bank Act (22 U.S.C. 283 *et seq.*) is amended by adding at the end thereof the following new section:

"SEC. 37. CAPITAL INCREASE; INCREASE IN RESOURCES OF FUND FOR SPECIAL OPERATIONS

"(a) AUTHORITY TO VOTE FOR, AND TO SUBSCRIBE AND CONTRIBUTE TO, INCREASE IN AUTHORIZED CAPITAL STOCK OF BANK AND INCREASE IN RESOURCES OF FUND FOR SPECIAL OPERATIONS

"(1) VOTE AUTHORIZED.—The United States Governor of the Bank is authorized to vote for resolutions that—

"(A) were transmitted by the Board of Executive Directors to the Governors of the Bank by resolution of [ ], 1994;

"(B) are pending before the Board of Governors of the Bank; and

"(C) provide for—

"(i) an increase in the authorized capital stock of the Bank and subscriptions to the Bank; and

"(ii) an increase in the resources of the Fund for Special Operations and contributions to the Fund.

"(2) SUBSCRIPTION AND CONTRIBUTION AUTHORITY.—To the extent and in the amounts provided in advance in appropriations Acts, on adoption of the resolutions described in paragraph (1), the United States Governor of the Bank may, on behalf of the United States—

"(A) subscribe to 760,644 shares of the increase in the authorized capital stock of the Bank; and

"(B) contribute $82,304,000 to the Fund for Special Operations.

"(b) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—To pay for the subscription and contribution authorized under subsection (a), there are authorized to be appropriated, without fiscal year limitation, for payment by the Secretary of the Treasury—

"(1) $9,175,977,459 for the United States subscription to the capital stock of the Bank; and

"(2) $82,304,000 for the United States contribution to the Fund for Special Operations.

"(c) AUTHORITY TO VOTE FOR CERTAIN RESOLUTIONS.—The United States Governor of the Bank is authorized to vote for a proposed resolution of the Board of Governors entitled 'Amendments to the Agreement Establishing the Inter-American Development Bank, the Regulations of the Board of Governors, the General Rules Governing Admission of Nonregional Countries to Membership in the Bank, and the Regulations for the Election of Executive Directors,' which was submitted to the Board of Governors pursuant to a resolution of the Board of Executive Directors approved on [ ], 1994.".

DEPARTMENT OF THE TREASURY,
Washington, DC, April 26, 1994.

Hon. AL GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: I am pleased to transmit herewith a draft bill, "To authorize a United States contribution to the Inter-American Development Bank, and for other purposes."

This legislation would authorize the United States to participate in the recently concluded eighth replenishment of the Inter-American Development Bank (IDB). The replenishment will support an increased lending program to Latin America, establish new priorities in IDB lending, and recognize Latin America and the Caribbean as our trusted partners. It also significantly reduces the cost of U.S. participation in the IDB.

The size of the eighth replenishment is $40 billion for Ordinary Capital and $1 billion for the Fund for Special Operations (FSO). The U.S. will pay $25.6 million per year for six years for paid-in shares of Ordinary Capital, and $20.6 million per year for four years for the FSO. These payments and contributions, of course, are subject to obtaining necessary appropriations. The U.S. will also purchase 747,906 shares of callable capital, which will require program limitation in appropriations legislation.

With this replenishment, the U.S. share in the IDB will be lowered from 34.6 to 30 percent, thereby significantly reducing the U.S. annual payment for Ordinary Capital. The proposed legislation will also authorize the U.S. to agree to IDB Charter amendments that will allow the U.S. to maintain nearly all of its current rights and privileges. U.S. approval would be required before the IDB could make new FSO loans or adopt new FSO policies, and the U.S. presence or vote will be a critical element in all future meetings or mail votes of the IDB Board of Governors.

The reduction in the U.S. share in the IDB also permits a larger non-regional country presence in the IDB, which leverages significant new concessional resources for the FSO that will be used for the poorest countries of the region. The U.S. share of the $1 billion FSO replenishment is only 8.2 percent, compared to 41 percent under the previous replenishment.

The eighth replenishment is a major achievement for the United States and the IDB. The IDB's lending program will be reoriented to ensure that positive economic gains made in many Latin American and Caribbean countries are expanded to include all strata of society. The IDB's objective is to increase social sector lending to 40 percent of total lending by volume, and 50 percent of total number of operations.

In order to expand economic opportunity, operational changes are being made, the type and scope of lending for the social sectors will be expanded, and projects will be targeted more narrowly at the poor and disenfranchised. Lending in the social sectors will focus on primary and preventative health care, with an emphasis on maternal and child health care, inoculations and nutrition, family planning, expanded support for the role of women and other disenfranchised groups, basic education, vocational training and adult education, support for good governance, and improvements in water supply, sewage and sanitation.

The eighth replenishment also places a premium on lending to support the environment. The IDB will increase environmentally beneficial lending and encourage borrowing countries to improve protection of the environment, including the global environment. The IDB will also encourage energy efficiency and conservation, establish a water resources policy and incorporate resettlement policies into its environmental assessments. Further, the IDB will continue to support the conservation, reforestation and rehabilitation of forests and will not finance commercial logging in primary tropical moist forests. The replenishment agreement also will result in increased public participation by ensuring that environmental information is available to the public in both donor and borrowing countries throughout the project cycle.

In connection with the eighth replenishment, the United States has commitments from Bank management and other Bank members to establish an independent inspection function, which would include a panel of independent experts to investigate allegations that the IDB had failed to adhere to its own operational policies. IDB management is committed to propose a comprehensive disclosure policy based on the assumption that, in the absence of a reason for confidentiality, information will be released.

It would be appreciated if you would lay the draft bill before the Senate. An identical draft bill has been transmitted to the Speaker of the House of Representatives.

The Office of Management and Budget has advised that there is no objection to the transmittal of the draft bill to the Congress, and that its enactment would be in accord with the program of the President.

Sincerely,

JEAN E. HANSON,
General Counsel.•

By Mr. PELL (by request):

S. 2221. A bill to implement the obligations of the United States under the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction, known as "the Chemical Weapons Convention" and opened for signature and signed by the United States on January 13, 1993; to the Committee on Foreign Relations.

CHEMICAL WEAPONS CONVENTION IMPLEMENTATION ACT OF 1994

• Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to implement the obligations of the United States under the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction, known as "the Chemical Weapons Convention" and opened for signature and signed by the United States on January 13, 1993. This act may be cited as the "Chemical Weapons Convention Implementation Act of 1994."

This proposed legislation has been requested by the U.S. Arms Control and Disarmament Agency, and I am introducing it in order that there may be a specific bill to which Members of the

Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the section-by-section analysis and the letter from the Director of the U.S. Arms Control and Disarmament Agency, which was received on June 2, 1994.

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

S. 2221

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 "Chemical Weapons Convention Implementation Act of 1994."

SEC. 2. TABLE OF CONTENTS

The table of contents for this Act is as follows—

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Congressional findings.
Sec. 4. Congressional declarations.
Sec. 5. Definitions.
Sec. 6. Severablity.

TITLE I.—NATIONAL AUTHORITY

Sec. 101 Establishment.

TITLE II.—APPLICATION OF CONVENTION PROHIBITIONS TO NATURAL AND LEGAL PERSONS

Sec. 201. Criminal provisions.
Sec. 202. Effective date.
Sec. 203. Restrictions on scheduled chemicals.

TITLE III.—DECLARATIONS BY CHEMICAL INDUSTRY

Sec. 301. Reporting of information.
Sec. 302. Disclosure of information or materials.
Sec. 303. Prohibited acts.

TITLE IV.—INSPECTIONS

Sec. 401. Inspections of chemical industry.
Sec. 402. Other inspections and lead agency.
Sec. 403. Prohibited acts.
Sec. 404. Penalties.
Sec. 405. Specific enforcement.
Sec. 406. Legal proceedings.
Sec. 407. Authority.

SEC. 3. CONGRESSIONAL FINDINGS.

The Congress makes the following findings—

(1) Chemical weapons pose a significant threat to the national security of the United States and are a scourge to humankind.

(2) The Chemical Weapons Convention is the best means of ensuring the nonproliferation of chemical weapons and their eventual destruction and forswearing by all nations.

(3) The verification procedures contained in the Chemical Weapons Convention and the faithful adherence of nations to them, including the United States, are crucial to the success of the Convention.

(4) The declarations and inspections required by the Chemical Weapons Convention are essential for the effectiveness of the verification regime.

SEC. 4. CONGRESSIONAL DECLARATIONS.

The Congress makes the following declarations—

(1) It shall be the policy of the United States to cooperate with other States Parties to the Chemical Weapons Convention and afford the appropriate form of legal assistance to facilitate the implementation of the prohibitions contained in title II of this Act.

(2) It shall be the policy of the United States, during the implementation of its obligations under the Chemical Weapons Convention, to assign the highest priority to ensuring the safety of people and to protecting the environment, and to cooperate as appropriate with other States Parties to the Convention in this regard.

(3) It shall be the policy of the United States to minimize, to the greatest extent practicable, the administrative burden and intrusiveness of measure to implement the Chemical Weapons Convention placed on commercial and other private entities, and to take into account the possible competitive impact of regulatory measures on industry, consistent with the obligations of the United States under the Convention.

SEC. 5. DEFINITIONS.

(a) IN GENERAL.—Except as otherwise provided in this Act, the definitions of the terms used in this Act shall be those contained in the Chemical Weapons Convention.

(b) OTHER DEFINITIONS.—(1) The term "Chemical Weapons Convention" means the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993.

(2) The term "national of the United States" has the same meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(3) The term "United States," when used in a geographical sense, includes all places under the jurisdiction or control of the United States, including (A) any of the places within the provisions of section 101(41) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. Sec. 1301(41)), (B) any public aircraft or civil aircraft of the United States, as such terms are defined in sections 101(36) and (18) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. Secs. 1301(36) and 1301(18)), and (C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C. App. Sec. 1903(b)).

(4) The term "person," except as used in section 201 of this Act and as set forth below, means (A) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any agency, instrumentality or political subdivision of any such government or nation, or other entity located in the United States; and (B) any legal successor, representative, agent or agency of the foregoing located in the United States. The phrase "located in the United States" in the term "person" shall not apply to the term "person" as used in the phrases "person located outside the territory" in sections 203(b), 203(c) and 302(c) of this Act and "person located in the territory" in section 203(b) of this Act.

(5) The term "Technical Secretariat" means the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons established by the Chemical Weapons Convention.

SEC. 6. SEVERABILITY.

If any provision of this Act, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

TITLE I—NATIONAL AUTHORITY

SEC. 101. ESTABLISHMENT.

Pursuant to paragraph 4 of Article VII of the Chemical Weapons Convention, the President or the designee of the President shall establish the "United States National Authority" to, *inter alia*, serve as the national focal point for effective liaison with the Organization for the Prohibition of Chemical Weapons and other States Parties to the Convention.

TITLE II.—APPLICATION OF CONVENTION PROHIBITIONS TO NATURAL AND LEGAL PERSONS

SEC. 201. CRIMINAL PROVISIONS.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by—

(1) redesignating chapter 11A relating to child support as chapter 11B; and

(2) inserting after chapter 11 relating to bribery, graft and conflicts of interest the following new chapter:

"CHAPTER 11A—CHEMICAL WEAPONS

"Sec.
"227. Penalties and prohibitions with respect to chemical weapons.
"227A. Seizure, forfeiture, and destruction.
"227B. Injunctions.
"227C. Other prohibitions.
"227D. Definitions.

"SEC. 227. PENALTIES AND PROHIBITIONS WITH RESPECT TO CHEMICAL WEAPONS.

"(a) IN GENERAL.—Except as provided in subsection (b), whoever knowingly develops, produces, otherwise acquires, stockpiles, retains, directly or indirectly transfers, uses, owns or possesses any chemical weapon, or knowingly assists, encourages or induces, in any way, any person to do so, or attempts or conspires to do so, shall be fined under this title or imprisoned for life or any term of years, or both.

"(b) EXCLUSION.—Subsection (a) shall not apply to the retention, ownership or possession of a chemical weapon, that is permitted by the Chemical Weapons Convention pending the weapon's destruction, by any agency or department of the United States. This exclusion shall apply to any person, including members of the Armed Forces of the United States, who is authorized by any agency or department of the United States to retain, own or possess a chemical weapon, unless that person knows or would have known that such retention, ownership or possession is not permitted by the Chemical Weapons Convention.

"(c) JURISDICTION.—There is jurisdiction by the United States over the prohibited activity in subsection (a) if (1) the prohibited activity takes place in the United States or (2) the prohibited activity takes place outside of the United States and is committed by a national of the United States.

"(d) ADDITIONAL PENALTY.—The court shall order that any person convicted of any offense under this section pay to the United States any expenses incurred incident to the seizure, storage, handling, transportation and destruction or other disposition of property seized for the violation of this section.

"SEC. 227A SEIZURE, FORFEITURE, AND DESTRUCTION.

"(a) SEIZURE.—(1) Except as provided in paragraph (2), the Attorney General may request the issuance, in the same manner as provided for a search warrant, of a warrant authorizing the seizure of any chemical

weapon defined in section 227D(2)(A) of this title that is of a type or quantity that under the circumstances is inconsistent with the purposes not prohibited under the Chemical Weapons Convention.

"(2) In exigent circumstances, seizure and destruction of any such chemical weapon described in paragraph (1) may be made by the Attorney General upon probable cause without the necessity for a warrant.

"(b) PROCEDURE FOR FORFEITURE AND DESTRUCTION.—Property seized pursuant to subsection (a) shall be forfeited to the United States. Except as inconsistent herewith, the provisions of chapter 46 of this title relating to civil forfeitures shall extend to a seizure or forfeiture under this section. The Attorney General shall provide for the destruction or other appropriate disposition of any chemical weapon seized and forfeited pursuant to this section.

"(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense against a forfeiture under subsection (b) that—

"(1) such alleged chemical weapon is for a purpose not prohibited under the Chemical Weapons Convention; and

"(2) such alleged chemical weapon is of a type and quantity that under the circumstances is consistent with that purpose.

"(d) OTHER SEIZURE, FORFEITURE, AND DESTRUCTION.—

"(1) Except as provided in paragraph (2), the Attorney General may request the issuance, in the same manner as provided for a search warrant, of a warrant authorizing the seizure of any chemical weapon defined in section 227D(2) (B) or (C) of this title that exists by reason of conduct prohibited under section 227 of this title.

"(2) In exigent circumstances, seizure and destruction of any such chemical weapon described in paragraph (1) may be made by the Attorney General upon probable cause without the necessity for a warrant.

"(3) Property seized pursuant to this subsection shall be summarily forfeited to the United States and destroyed.

"(e) ASSISTANCE.—The Attorney General may request assistance from any agency or department in the handling, storage, transportation or destruction of property seized under this section.

"(f) OWNER LIABILITY.—The owner or possessor of any property seized under this section shall be liable to the United States for any expenses incurred incident to the seizure, including any expenses relating to the handling, storage, transportation and destruction or other disposition of the seized property.

"SEC. 227B. INJUNCTIONS.

"(a) IN GENERAL.—The United States may obtain in a civil action an injunction against—

"(1) the conduct prohibited under section 227 of this title;

"(2) the preparation or solicitation to engage in conduct prohibited under section 227 of this title; or

"(3) the development, production, other acquisition, stockpiling, retention, direct or indirect transfer, use, ownership or possession, or the attempted development, production, other acquisition, stockpiling, retention, direct or indirect transfer, use, ownership or possession, of any alleged chemical weapon defined in section 227D(2)(A) of this title that is of a type or quantity that under the circumstances is inconsistent with the purposes not prohibited under the Chemical Weapons Convention, or the assistance to any person to do so.

"(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense against any injunction under subsection (a)(3) that—

"(1) the conduct sought to be enjoined is for a purpose not prohibited under the Chemical Weapons Convention; and

"(2) such alleged chemical weapon is of a type and quantity that under the circumstances is consistent with that purpose.

"SEC. 227C. OTHER PROHIBITIONS.

"(a) IN GENERAL.—Except as provided in subsection (b), whoever knowingly uses riot control agents as a method of warfare, or knowingly assists any person to do so, shall be fined under this title or imprisoned for a term of not more than ten years, or both.

"(b) EXCLUSION.—Subsection (a) shall not apply to members of the Armed Forces of the United States. Members of the Armed Forces of the United States who use riot control agents as a method of warfare shall be subject to appropriate military penalties.

"(c) JURISDICTION.—There is jurisdiction by the United States over the prohibited activity in subsection (a) if (1) the prohibited activity takes place in the United States or (2) the prohibited activity takes place outside of the United States and is committed by a national of the United States.

"SEC. 227D. DEFINITIONS.

"As used in this chapter, the term—

"(1) 'Chemical Weapons Convention' means the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993;

"(2) 'chemical weapon' means the following, together or separately:

"(A) a toxic chemical and its precursors, except where intended for a purpose not prohibited under the Chemical Weapons Convention, as long as the type and quantity is consistent with such a purpose;

"(B) a munition or device, specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in subparagraph (A), which would be released as a result of the employment of such munition or device; or

"(C) any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (B);

"(3) 'toxic chemical' means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. This includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere;

"(4) 'precursor' means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. This includes any key component of a binary or multicomponent chemical system;

"(5) 'key component of a binary or multicomponent chemical system' means the precursor which plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multicomponent system;

"(6) 'purpose not prohibited under the Chemical Weapons Convention' means—

"(A) industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes;

"(B) protective purposes, namely those purposes directly related to protection against toxic chemicals and to protection against chemical weapons;

"(C) military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warfare; or

"(D) law enforcement purposes, including domestic riot control purposes;

"(7) 'national of the United States' has the same meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(8) 'United States,' when used in a geographical sense, includes all places under the jurisdiction or control of the United States, including (A) any of the places within the provisions of section 101(41) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. Sec. 1301(41)), (B) any public aircraft or civil aircraft of the United States, as such terms are defined in sections 101(36) and (18) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. Secs. 1301(36) and 1301(18)), and (C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C. App. Sec. 1903(b));

"(9) 'person' means (A) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any agency, instrumentality or political subdivision of any such government or nation, or other entity; and (B) any legal successor, representative, agent or agency of the foregoing; and

"(10) 'riot control agent' means any chemical not listed in a Schedule in the Annex on Chemicals of the Chemical Weapons Convention, which can produce rapidly in humans sensory irritation or disabling physical effects which disappear within a short time following termination of exposure."

(b) CLERICAL AMENDMENTS.—The table of chapters for part I of title 18, United States Code, is amended by—

(1) in the item for chapter 11A relating to child support, redesignating "11A" as "11B"; and

(2) inserting after the item for chapter 11 the following new item:

"11A. CHEMICAL WEAPONS ..... 227."

SEC. 202. EFFECTIVE DATE.

This title shall take effect on the date the Chemical Weapons Convention enters into force for the United States.

SEC. 203. RESTRICTIONS ON SCHEDULED CHEMICALS.

(a) SCHEDULE 1 ACTIVITIES.—It shall be unlawful for any person or any national of the United States located outside the United States to produce, acquire, retain, transfer or use a chemical listed on Schedule 1 of the Annex on Chemicals of the Chemical Weapons Convention, unless—

(1) the chemicals are applied to research, medical, pharmaceutical or protective purposes;

(2) the types and quantities of chemicals are strictly limited to those that can be justified for such purposes; and

(3) the amount of such chemicals per person at any given time for such purposes does not exceed a limit to be determined by the United States National Authority, but in any case, does not exceed one metric ton.

(b) EXTRATERRITORIAL ACTS.—(1) It shall be unlawful for any person or any national of the United States located outside the United States to produce, acquire, retain or use a chemical listed on Schedule 1 of the Annex on Chemicals of the Chemical Weapons Convention outside the territories of the States Parties to the Convention or to transfer such chemicals to any person located outside the territory of the United States, except as provided for in the Convention for transfer to a

person located in the territory of another State Party to the Convention.

(2) Beginning three years after the entry into force of the Chemical Weapons Convention, it shall be unlawful for any person or any national of the United States located outside the United States to transfer a chemical listed on Schedule 2 of the Annex on Chemicals of the Convention to any person located outside the territory of a State Party to the Convention or to receive such a chemical from any person located outside the territory of a State Party to the Convention.

(c) JURISDICTION.—There is jurisdiction by the United States over the prohibited activity in subsections (a) and (b) if (1) the prohibited activity takes place in the United States or (2) the prohibited activity takes place outside of the United States and is committed by a national of the United States.

TITLE III.—DECLARATIONS BY CHEMICAL INDUSTRY

SEC. 301. REPORTING OF INFORMATION.

(a) REPORTS.—The Department of Commerce shall promulgate regulations under which each person who produces, processes, consumes, exports or imports, or proposes to produce, process, consume, export or import, a chemical substance subject to the Chemical Weapons Convention shall maintain and permit access to such records and shall submit to the Department of Commerce such reports as the United States National Authority may reasonably require pursuant to the Chemical Weapons Convention. The Department of Commerce shall promulgate regulations pursuant to this title expeditiously, and may amend or change such regulations as necessary.

(b) COORDINATION.—To the extent feasible, the United States National Authority shall not require any reporting that is unnecessary, or duplicative of reporting required under any other Act. Agencies and departments shall coordinate their actions with other agencies and departments to avoid duplication of reporting by the affected persons under this Act or any other Act.

SEC. 302. DISCLOSURE OF INFORMATION OR MATERIALS.

(a) IN GENERAL.—Any information or materials reported to, or otherwise obtained by, the United States National Authority or the Department of Commerce, or any other agency or department under this Act or the Chemical Weapons Convention may be withheld from public disclosure or provision only to the extent permitted by law. Information or materials obtained from declarations or inspections required by the Chemical Weapons Convention, that are not already in the public domain, shall be withheld from public disclosure or provision and shall not be required to be disclosed pursuant to section 552 of title 5, United States Code, except that such information or material—

(1) shall be disclosed or otherwise provided to the Technical Secretariat or other States Parties to the Chemical Weapons Convention in accordance with the Convention, in particular, the provisions of the Annex on the Protection of Confidential Information;

(2) shall be made available to any committee or subcommittee of Congress of appropriate jurisdiction upon the written request of the chairman or ranking minority member of such committee or subcommittee, except that no such committee or subcommittee, or member thereof, shall disclose such information or material;

(3) shall be disclosed to other agencies or departments for law enforcement purposes with regard to this Act or any other Act, and may be disclosed or otherwise provided when relevant in any proceeding under this Act or any other Act, except that disclosure or provision in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding; and

(4) may be disclosed, including in the form of categories of information, if the United States National Authority determines that such disclosure is in the national interest.

(b) NOTICE OF DISCLOSURE.—If the United States National Authority, pursuant to subsection (a)(4), proposes to publish or disclose or otherwise provide information or materials exempted from disclosure in subsection (a), the United States National Authority shall, where appropriate, notify the person who submitted such information or materials of the intent to release such information or materials. Where notice has been provided, the United States National Authority may not release such information or materials until the expiration of 30 days after notice has been provided.

(c) CRIMINAL PENALTY FOR WRONGFUL DISCLOSURE.—Any officer or employee of the United States or former officer or employee of the United States, who by virtue of such employment or official position has obtained possession of, or has access to, information or materials the disclosure or other provision of which is prohibited by subsection (a), and who knowing that disclosure or provision of such information or materials is prohibited by such subsection, willfully discloses or otherwise provides the information or materials in any manner to any person, including persons located outside the territory of the United States, not entitled to receive it, shall be fined under title 18, United States Code, or imprisoned for not more than five years, or both.

(d) INTERNATIONAL INSPECTORS.—The provisions of this section on disclosure or provision of information or materials shall also apply to employees of the Technical Secretariat.

SEC. 303. PROHIBITED ACTS.

It shall be unlawful for any person to fail or refuse to (a) establish or maintain records, (b) submit reports, notices, or other information to the Department of Commerce or the United States National Authority, or (c) permit access to or copying of records, as required by this Act or a regulation thereunder.

TITLE IV.—INSPECTIONS

SEC. 401. INSPECTIONS OF CHEMICAL INDUSTRY.

(a) AUTHORITY.—For purposes of administering this Act—

(1) any duly designated member of an inspection team of the Technical Secretariat may inspect any plant, plant site, or other facility or location in the United States subject to inspection pursuant to the Chemical Weapons Convention; and

(2) any duly designated representative of an agency or department may accompany members of an inspection team of the Technical Secretariat during the inspection specified in paragraph (1).

(b) NOTICE.—An inspection pursuant to subsection (a) may be made only upon issuance of a written notice to the owner and to the operator, occupant or agent in charge of the premises to be inspected, except that failure to receive a notice shall not be a bar to the conduct of an inspection. The notice shall be submitted to the owner and to the operator, occupant or agent in charge as soon as possible after the United States National Authority receives it from the Technical Secretariat. The notice shall include all appropriate information supplied by the Technical Secretariat to the United States National Authority regarding the basis for the selection of the plant site, plant, or other facility or location for the type of inspection sought, including, for challenge inspections pursuant to Article IX of the Chemical Weapons Convention, appropriate evidence or reasons provided by the requesting State Party to the Convention with regard to its concerns about compliance with the Chemical Weapons Convention at the facility or location. A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection.

(c) CREDENTIALS.—If the owner, operator, occupant or agent in charge of the premises to be inspected is present, a member of the inspection team of the Technical Secretariat, as well as, if present, the representatives of agencies or departments, shall present appropriate credentials before the inspection is commenced.

(d) TIMEFRAME FOR INSPECTIONS.—Consistent with the provisions of the Chemical Weapons Convention, each inspection shall be commenced and completed with reasonable promptness and shall be conducted at reasonable times, within reasonable limits, and in a reasonable manner. The Department of Commerce shall endeavor to ensure that, to the extent possible, each inspection is commenced, conducted and concluded during ordinary working hours, but no inspection shall be prohibited or otherwise disrupted for commencing, continuing or concluding during other hours. However, nothing in this subsection shall be interpreted as modifying the time frames established in the Chemical Weapons Convention.

(e) SCOPE.—(1) Except as provided in paragraph (2) of this subsection and subsection (f), an inspection conducted under this title may extend to all things within the premises inspected (including records, files, papers, processes, controls, structures and entering and exiting vehicles) related to whether the requirements of the Chemical Weapons Convention applicable to such premises have been complied with.

(2) To the extent possible consistent with the obligations of the United States pursuant to the Chemical Weapons Convention, no inspection under this title shall extend to—

(A) financial data;

(B) sales and marketing data (other than shipment data);

(C) pricing data;

(D) personnel data;

(E) research data;

(F) patent data; or

(G) data maintained for compliance with environmental or occupational health and safety regulations.

(f) FACILITY AGREEMENTS.—(1) Inspections of plants, plant sites, or other facilities or locations for which the United States has a facility agreement with the Organization for the Prohibition of Chemical Weapons shall be conducted in accordance with the facility agreement.

(2) Facility agreements shall be concluded for plants, plant sites, or other facilities or locations that are subject to inspection pursuant to paragraph 4 of Article VI of the Chemical Weapons Convention unless the owner and the operator, occupant or agent in charge of the facility and the Technical Secretariat agree that such an agreement is not necessary. Facility agreements should be concluded for plants, plant sites, or other facilities or locations that are subject to inspection pursuant to paragraphs 5 or 6 of Article VI of the Chemical Weapons Convention

if so requested by the owner and the operator, occupant or agent in charge of the facility.

(3) The owner and the operator, occupant or agent in charge shall, to the extent practicable consistent with the obligations of the United States under the Chemical Weapons Convention, participate in the negotiation of all facility agreements concluded pursuant to the Convention.

(g) SAMPLING AND SAFETY.—(1) The Department of Commerce is authorized to require the provision of samples to a member of the inspection team of the Technical Secretariat in accordance with the provisions of the Chemical Weapons Convention. The owner or the operator, occupant or agent in charge of the premises to be inspected shall determine whether the sample shall be taken by representatives of the premises or the inspection team or other individuals present.

(2) In carrying out their activities, members of the inspection team of the Technical Secretariat and representatives of agencies or departments accompanying the inspection team shall observe safety regulations established at the premises to be inspected, including those for protection of controlled environments within a facility and for personal safety.

(h) COORDINATION.—To the extent possible consistent with the obligations of the United States pursuant to the Chemical Weapons Convention, the representatives of the United States National Authority, the Department of Commerce and any other agency or department, if present, shall assist the owner and the operator, occupant or agent in charge of the premises to be inspected in interacting with the members of the inspection team of the Technical Secretariat.

SEC. 402. OTHER INSPECTIONS AND LEAD AGENCY.

(a) OTHER INSPECTIONS.—The provisions of this title shall apply, as appropriate, to all other inspections authorized by the Chemical Weapons Convention. For all inspections other than those conducted pursuant to paragraphs 4, 5, or 6 of Article VI of the Convention, the term "Department of Commerce" shall be replaced by the term "Lead Agency" in section 401.

(b) LEAD AGENCY.—For the purposes of this title, the term "Lead Agency" means the agency or department designated by the President or the designee of the President to exercise the functions and powers set forth in the specific provision, based, inter alia, on the particular responsibilities of the agency or department within the United States Government and the relationship of the agency or department to the premises to be inspected.

SEC. 403. PROHIBITED ACTS.

It shall be unlawful for any person to fail or refuse to permit entry or inspection, or to disrupt, delay or otherwise impede an inspection as required by this Act or the Chemical Weapons Convention.

SEC. 404. PENALTIES.

(a) CIVIL.—(1) Any person who violates a provision of section 203, 303, or 403 of this Act shall be liable to the United States for a civil penalty in an amount not to exceed $50,000 for each such violation. For purposes of this subsection, each day such a violation of section 403 continues shall constitute a separate violation of section 403.

(2)(A) A civil penalty for a violation of section 203, 303 or 403 of this Act shall be assessed by the Lead Agency by an order made on the record after opportunity (provided in accordance with this subparagraph) for a hearing in accordance with section 554 of title 5, United States Code. Before issuing such an order, the Lead Agency shall give written notice to the person to be assessed a civil penalty under such order of the Lead Agency's proposal to issue such order and provide such person an opportunity to request, within 15 days of the date the notice is received by such person, such a hearing on the order.

(B) In determining the amount of a civil penalty, the Lead Agency shall take into account the nature, circumstances, extent and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

(C) The Lead Agency may compromise, modify or remit, with or without conditions, any civil penalty which may be imposed under this subsection. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

(3) Any person who requested in accordance with paragraph (2)(A) a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may be filed only within the 30-day period beginning on the date the order making such assessment was issued.

(4) If any person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (3); or

(B) after a court in an action brought under paragraph (3) has entered a final judgment in favor of the Lead Agency;

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in paragraph (3) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount and appropriateness of such penalty shall not be subject to review.

(b) CRIMINAL.—Any person who knowingly violates any provision of section 203, 303, or 403 of this Act, shall, in addition to or in lieu of any civil penalty which may be imposed under subsection (a) for such violation, be fined under title 18, United States Code, imprisoned for not more than two years, or both.

SEC. 405. SPECIFIC ENFORCEMENT.

(a) JURISDICTION.—The district courts of the United States shall have jurisdiction over civil actions to—

(1) restrain any violation of section 203, 303 or 403 of this Act; and

(2) compel the taking of any action required by or under this Act or the Chemical Weapons Convention.

(b) CIVIL ACTIONS.—A civil action described in subsection (a) may be brought—

(1) in the case of a civil action described in subsection (a)(1), in the United States district court for the judicial district wherein any act, omission, or transaction constituting a violation of section 203, 303 or 403 of this Act occurred or wherein the defendant is found or transacts business; or

(2) in the case of a civil action described in subsection (a)(2), in the United States district court for the judicial district wherein the defendant is found or transacts business. In any such civil action process may be served on a defendant wherever the defendant may reside or may be found, whether the defendant resides or may be found within the United States or elsewhere.

SEC. 406. LEGAL PROCEEDINGS.

(a) WARRANTS.—(1) The Lead Agency shall seek the consent of the owner or the operator, occupant or agent in charge of the premises to be inspected prior to the initiation of any inspection. Before or after seeking such consent, the Lead Agency may seek a search warrant from any official authorized to issue search warrants. Proceedings regarding the issuance of a search warrant shall be conducted *ex parte*, unless otherwise requested by the Lead Agency. The Lead Agency shall provide to the official authorized to issue search warrants all appropriate information supplied by the Technical Secretariat to the United States National Authority regarding the basis for the selection of the plant site, plant, or other facility or location for the type of inspection sought, including, for challenge inspections pursuant to Article IX of the Chemical Weapons Convention, appropriate evidence or reasons provided by the requesting State Party to the Convention with regard to its concerns about compliance with the Chemical Weapons Convention at the facility or location. The Lead Agency shall also provide any other appropriate information available to it relating to the reasonableness of the selection of the plant, plant site, or other facility or location for the inspection.

(2) The official authorized to issue search warrants shall promptly issue a warrant authorizing the requested inspection upon an affidavit submitted by the Lead Agency showing that—

(A) the Chemical Weapons Convention is in force for the United States;

(B) the plant site, plant, or other facility or location sought to be inspected is subject to the specific type of inspection requested under the Chemical Weapons Convention;

(C) the procedures established under the Chemical Weapons Convention and this Act for initiating an inspection have been complied with; and

(D) the Lead Agency will ensure that the inspection is conducted in a reasonable manner and will not exceed the scope or duration set forth in or authorized by the Chemical Weapons Convention or this Act.

(3) The warrant shall specify the type of inspection authorized; the purpose of the inspection; the type of plant site, plant, or other facility or location to be inspected; to the extent possible, the items, documents and areas that may be inspected; the earliest commencement and latest concluding dates and times of the inspection; and the identities of the representatives of the Technical Secretariat, if known, and, if applicable, the representatives of agencies or departments.

(b) SUBPOENAS.—In carrying out this Act, the Lead Agency may by subpoena require the attendance and testimony of witnesses and the production of reports, papers, documents, answers to questions and other information that the Lead Agency deems necessary. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In the event of contumacy, failure or refusal of any person to obey any such subpoena, any district court of the United States in which venue is proper shall have jurisdiction to order any

such person to comply with such subpoena. Any failure to obey such an order of the court is punishable by the court as a contempt thereof.

(c) INJUNCTIONS AND OTHER ORDERS.—No court shall issue an injunction or other order that would limit the ability of the Technical Secretariat to conduct, or the United States National Authority or the Lead Agency to facilitate, inspections as required or authorized by the Chemical Weapons Convention.

SEC. 407. AUTHORITY.

The Lead Agency may issue such regulations as are necessary to implement this title and the provisions of the Chemical Weapons Convention, and amend or revise them as necessary. The Lead Agency shall have the authority to appoint officials to issue warrants pursuant to section 406(a) authorizing inspections pursuant to this title.

SECTION-BY-SECTION ANALYSIS OF THE PROPOSED CHEMICAL WEAPONS CONVENTION IMPLEMENTATION ACT OF 1994

OVERVIEW

The Chemical Weapons Convention (CWC) contains a number of provisions that require implementing legislation to give them effect within the United States. These include provisions on international inspections, declarations by the chemical industry, and the establishment of a "National Authority" to serve as the liaison between the United States and the international organization established by the CWC (the Organization for the Prohibition of Chemical Weapons or OPCW) and States Parties to the Convention. In addition, the CWC requires the United States to prohibit all individuals and legal entities within the United States, regardless of their nationality, and all individuals outside the United States possessing U.S. citizenship, from engaging in activities that are prohibited to the United States under the Convention. As part of this prohibition, the CWC requires the United States to enact "penal" legislation implementing this prohibition (i.e., enact legislation that penalizes conduct, either by criminal, administrative, military or other sanctions).

The proposed "Chemical Weapons Convention Implementation Act of 1994" contains six miscellaneous sections and four Titles. The six miscellaneous sections concern the short title of the Act, the table of contents, Congressional findings and declarations, definitions, and a severability clause. Title I provides specific authority for the President to establish the U.S. National Authority. Title II contains criminal prohibitions with regard to activities relating to chemical weapons (e.g., outlawing their possession, development and use) and the use of riot control agents as a method of warfare. This Title also implements the CWC's restrictions on activities related to Schedule 1 and 2 chemicals (the chemicals and their precursors of most risk to the object and purpose of the CWC), such as the prohibition on transfers to non-States Parties.

Title III contains provisions authorizing the United States to collect information from members of the chemical industry as required by the CWC, and outlaws the failure to provide such information. This Title also prohibits the disclosure of information or materials (e.g., samples) obtained under the CWC except to the OPCW and States Parties, to appropriate committees and subcommittees of the Congress, for law enforcement purposes, and when disclosure is determined to be in the national interest. Finally, this Title prohibits authorized disclosure of information or materials obtained pursuant to the Act.

Title IV sets forth procedures for the initiation and conduct of international inspections required by the CWC. This includes provisions regarding notice, credentials, inspection time frames and scope, facility agreements, sampling and safety, and U.S. Government coordination. It also contains legal mechanisms for ensuring that the United States can fulfill its CWC obligation to allow inspections, such as procedures for obtaining warrants. These also include outlawing the refusal to allow, or interference with, inspections. Finally, this Title sets forth the penalties for violations of the requirements to provide access and information and violations of the restrictions with regard to Schedule 1 and 2 chemicals.

The Act does not address the issues of privileges and immunities for members of the international inspection teams, export controls (other than the specific trade restrictions) and liabilities. The Administration believes that U.S. obligations under the CWC with regard to these issues are already adequately provided for in current law.

MISCELLANEOUS SECTIONS

The first part of the Act contains six sections that provide for the short title of the Act, a table of contents, Congressional findings and declarations, definitions, and a severability clause. Sections 1 and 2 are standard provisions regarding the short title of the Act and the table of contents. Section 3 contains four findings by the Congress. These findings were developed to demonstrate Congressional recognition, in turn, of the importance of the problems addressed by the Convention, the materiality of the Convention in solving these problems, the significance of the verification regime for the success of the Convention, and the necessity of declarations and inspections for the effectiveness of the verification regime. The intent is to provide a clear legislative recognition of the rationale and need for declarations and international inspections of facilities and locations within the United States.

Section 4 sets forth three declarations regarding U.S. policy on the provision of legal assistance to other States Parties to the Convention, on ensuring the safety of people and protection of the environment during the implementation of the Convention, and on minimizing the burden of the Convention on the U.S. business community, consistent with other U.S. obligations under the CWC. The first two declarations reinforce the identical undertakings by the United States contained in CWC Articles VII (2) and (3).

Section 5 contains a general provision incorporating the definitions set forth in the Convention and definitions of the following terms used in the Act: "Chemical Weapons Convention;" "national of the United States;" "United States;" "person;" and "Technical Secretariat." The first term is simply shorthand for the full title of the Convention. The term "national of the United States" utilizes the definition contained in section 101(a)(22) of the Immigration and Nationality Act.

The term "United States" reflects the geographic scope of the obligations of States Parties contained in the Convention, i.e., any place under the jurisdiction or control of a State Party (see, e.g., CWC Article I(2)). Places under the jurisdiction or control of the United States include U.S. territory and certain places outside the United States, such as U.S. overseas military bases and offshore oil platforms on the U.S. continental shelf. The definition specifies two such places—U.S. aircraft and vessels—by incorporating definitions for them contained in other existing law. This inclusion does not mean that any exceptions contained in these laws are also included. The overriding provision in the definition of the term "United States" is that the term includes "all places under the jurisdiction or control of the United States," not all places are defined in those other laws.

The term "person" is defined as broadly as possible to ensure that all possible entities within the United States that are covered by the provisions. Most uses of the term "person" in the Act refer to entities located in the United States. However, this definition also specifically sets forth the uses of the term "person" that include entities outside the United States, e.g., entities to whom Schedule 1 or 2 chemicals are transferred. Finally, the term "Technical Secretariat;" refers to the body of the OPCW responsible for conducting verification activities.

Section 6 contains a severability clause ensuring that if a section of the Act is later judged to be invalid, the other sections will remain in effect. While the Administration believes that the Convention and the Act are fully consistent with the U.S. Constitution, because of the unique constitutional considerations entailed in permitting international inspections of private facilities and locations within the United States, such a clause is prudent. Section 6 is modeled on nearly identical language contained in the Nuclear Nonproliferation Act, Public Law 95-242.

Title I—National Authority

Title I provides for the establishment of the "United States National Authority" to, *inter alia*, serve as the official liaison between the United States and the OPCW and other States Parties to the Convention. This is required by CWC Article VII(4), which states that "[i]n order to fulfill its obligations under [the CWC], each State Party shall designate or establish a National authority to serve as the national focal point for effective liaison with the [OPCW] and other States Parties. . . ." Section 101 requires the President to establish such a National Authority, but leaves it up to the Executive Branch to determine the appropriate structure. This structure will be set forth in detail in a forthcoming Executive Order.

Title II—Application of Convention Prohibitions to Natural and Legal Persons

Title II contains three sections. Specifically, it provides for criminal prohibitions with regard to activities relating to chemical weapons (e.g., outlawing their possession, development and use), as well as provisions authorizing the seizure, forfeiture and destruction of chemical weapons. In addition, it outlaws the use of riot control agents as a method of warfare. This Title also implements the CWC's restrictions on activities related to Schedule 1 and 2 chemicals, such as the prohibition on transfers to non-State Parties. Title II is intended to fulfill the obligation of the United States under the CWC to give full domestic legal effect to the Convention's prohibitions with regard to the activities of natural and legal persons. In addition, this Title is intended to provide law enforcement officials with the lawful authority to act in the interest of national security and public safety in all situations, including and beyond official activities undertaken to implement the Convention.

Section 201 sets forth criminal prohibitions and penalties with respect to chemical weapons, procedures for seizure, forfeiture and destruction of chemical weapons, provisions for injunctions on prohibited activities, prohibitions on the use of riot control agents as a

method of warfare, and definitions pertaining to these provisions.

This section is specifically required by the CWC. CWC Article VII(1) provides that:

Each State Party shall, in accordance with its constitutional processes, adopt the necessary measures to implement its obligations under [the] Convention. In particular it shall:

(a) Prohibit natural and legal persons anywhere on its territory or in any other place under its jurisdiction as recognized by international law from undertaking any activity prohibited to a State Party under [the] Convention, including enacting penal legislation with respect to such activity;

(b) Not permit in any place under its control any activity prohibited to a State Party under [the] Convention; and

(c) Extend its penal legislation enacted under subparagraph (a) to any activity prohibited to a State Party under [the] Convention undertaken anywhere by natural persons, possessing its nationality, in conformity with international law.

CWC Article VII(1) is designed to extend the prohibition on activities by States Parties (primarily the CWC Article I prohibitions on the development, production, other acquisition, stockpiling, retention, transfer or use of chemical weapons) to activities by private individuals and legal entities, such as corporations. This was done as a means of ensuring that States Parties could not lawfully conduct prohibited activities through intermediaries and to place an affirmative obligation on States Parties to control prohibited activities within their legal or actual reach. It is understood that for a State Party to "prohibit" activities it must enact and enforce penal legislation governing the conduct of private individuals and legal entities. The term "penal" was understood by the negotiators to mean that the legislation can be of a criminal, civil, administrative, military or other such nature, so long as penalties are involved. According, the penalties proscribed in Title II include criminal, civil and military sanctions.

Title II (in particular section 201) is designed to fulfill the U.S. obligation contained in CWC Article VII(1). It addresses all of the prohibited activities contained in the CWC that the Administration believes require specific implementing legislation. (Other prohibitions are already covered by existing law or involve entirely governmental action for which individuals can be penalized by appropriate administrative or military sanctions.) Section 201 is modeled after similar language contained in the Biological Weapons Anti-Terrorism Act (BWATA), Public Law 101-298. That Act implements a comparable obligation contained in Article IV of the Biological Weapons Convention.

Subsection 201(a) consists of a new chapter 11A of the criminal code embodied in Title 18 of the U.S. Code and contains five sections numbered "227" through "227D." New Title 18, section 227, implements the prohibited activities contained in CWC Articles I(1) (a), (b), and (d). (Persons violating the CWC Article I(1)(c) prohibition on engaging in military preparations to use chemical weapons would be subject to military sanctions or other laws prohibiting U.S. persons from engaging in military activities.) Subsection 227(a) outlaws the knowing development, production, other acquisition, stockpiling, retention, direct or indirect transfer, use, ownership or possession of any chemical weapon, the assistance, encouragement or inducement of any person to do so, and the attempt or conspiracy to do so. Violators can be fined or imprisoned for life or any term of years, or both.

The language of subsection 227(a) is modeled on similar language in the BWATA, 18 U.S.C. 175(a). Subsection 227(a) clearly sets out the elements of the offense and establishes penalties that underscore the commitment of the United States to the total abolition of chemical weapons. The provision for imposing fines or confinement for life or any term of years (which mirrors the same penalties with regard to biological weapons) is intended to enable the courts to exercise discretion in sentencing. This will allow the punishment to be commensurate with the crime, whether, e.g., it be the terrorist use of a chemical weapon or a lesser offense adjudged under this subsection.

The language of subsection 227(a) establishing liability for one who "encourages or induces" prohibited activities is intended to implement CWC Article I(1)(d). That provision of Article I requires each State Party to undertake "never under any circumstances . . . [t]o assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party. . . ." Subsection 227(a) does not, however, affect the legitimate right to freedom of speech contained in the First Amendment to the U.S. Constitution.

Under the CWC the United States is permitted to retain at least part of its chemical weapons stockpile for up to ten years before all of it must be destroyed (or fifteen years if the United States seeks and receives a five-year extension from the OPCW). Chemical weapons also may be discovered at a later time, including after the ten-year destruction deadline has passed. Subsection 227(b) therefore acts to permit the retention, ownership or possession of these chemical weapons by any agency or department of the United States or any person, including members of the U.S. armed forces, acting with the authorization of any agency or department of the United States pending the weapon's destruction. The exclusion from the general prohibition for individuals is patterned after the obedience to orders defense in military law, i.e., authorization is presumed to be legal unless the individual knows or should have known that it is not. The jurisdictional reach of this section required by CWC Article VII(1) is set forth in subsection 227(c). Finally, as discussed below, subsection 227(d) contains additional penalties related to chemical weapons.

New Title 18, section 227A provides the Attorney General the authority to seek the seizure, civil forfeiture, and destruction or other appropriate disposition of chemical weapons. Subsection 227A(a) describes the seizure process for chemical weapons as defined under section 227D(2)(A) (i.e., certain toxic chemicals and their precursors) that are "of a type or quantity that under the circumstances is inconsistent with the purposes not prohibited under the Chemical Weapons Convention." Chemical weapons fall into three categories—toxic chemicals and their precursors, chemical munitions and devices, and chemical equipment. Subsection 227A(a) concerns only the first category of chemical weapon.

Pursuant to the Federal Rules of Criminal Procedure, the Attorney General may apply for a judicial warrant authorizing the seizure of such toxic chemicals and their precursors. The phrase "under the circumstances" obligates the Attorney General to look beneath surface appearances to ensure that toxic chemicals and precursors that are intended for purposes not prohibited by the Chemical Weapons Convention are not mistakenly targeted for seizure and forfeiture.

In exigent circumstances, seizure and destruction may be carried out upon probable cause without a warrant. This exception is intended to be used in rare instances, such as where the danger to public health and safety or to the environment or the danger of transfer to another country is so extreme that applying for a warrant is impracticable.

Subsection 227A(b) provides procedures for forfeiture and authorizes the disposition by the Attorney General of forfeited chemical weapons that are toxic chemicals or precursors. The standard civil forfeiture procedures applicable under chapter 46 of Title 18 of the U.S. Code to forfeitures of property involved in other types of criminal activity, including procedures for notice, opportunity for a forfeiture hearing, and the allocation of the burden of proof at such hearing, are incorporated into subsection 227A(b) by reference. The chapter 46 procedures will apply to seizures and forfeitures under section 227A to the extent that the standard forfeiture procedures applicable under chapter 46 are not inconsistent with the warrant requirement, the provisions for summary forfeiture of chemical weapons as defined by sections 227D(2) (B) and (C), or the other provisions of section 227A. Subsection 227A(b) also requires that the Attorney General shall provide for the destruction or other appropriate disposition of chemical weapons that are seized and forfeited.

Subsection 227A(c) gives claimants an affirmative defense to aver, if they wish, in forfeitures under subsection 227A(b) of toxic chemical and precursors as defined in section 227D(2)(A). As previously noted, chemical weapons fall into three categories—toxic chemicals and their precursors, chemical munitions and devices, and chemical equipment. Subsection 227A(c) concerns only the first category of chemical weapon.

In this regard, it is important to note that section 227D(2)(A) defines "chemical weapon" to exclude chemicals that are "intended for a purpose not prohibited under the Chemical Weapons Convention, as long as the type and quantity is consistent with such a purpose." Such purposes are defined in section 227D(6) and include, e.g., industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes. Also, subsection 227A(a) seizures are based upon the "type or quantity that under the circumstances is inconsistent with the purposes not prohibited under the Chemical Weapons Convention." Consequently, fairness requires that the claimants be afforded the opportunity to demonstrate that the seized chemicals are in fact intended for a purpose that is not prohibited and that the chemicals are of a type and quantity consistent with that purpose. Claimants may, of course, decide to raise no defense or to put the Government to its proof. The affirmative defense of subsection 227A(c) is intended, therefore, to be an additional protection for persons who use toxic chemicals and their precursors for purposes not prohibited under the Chemical Weapons Convention.

Subsection 227A(d) provides for summary forfeiture without a hearing and the destruction of the chemical weapons defined by sections 227D(2) (B) and (C). In contrast to chemical weapons that are toxic chemicals and precursors (section 227D(2)(A)), which are seized for forfeiture based on type, quantity, and circumstances, seizures of chemical weapons that are munitions and devices (section 227D(2)(B)) or equipment (section

227D(2)(C)) are based upon their existence "by reason of conduct prohibited under section 227." There is no affirmative defense provision for munitions and devices that are "specifically designed" to cause death or other harm and that exist by reason of criminal conduct. Similarly, there is no affirmative defense provision for equipment that is "specifically designed for use directly in connection with the employment of munitions and devices" and that exists by reason of criminal conduct. By definition, such munitions, devices and equipment have a purpose inconsistent with the Chemical Weapons Convention. Consequently, an affirmative defense based upon establishing that such property has a purpose that is not prohibited and that the property is of a type and quantity consistent with that purpose is inappropriate.

Subsection 227A(d) provides for the seizure and summary forfeiture of "chemical weapons" as defined under sections 227D(2) (B) and (C) (munitions, devices or equipment) if they exist "by reason of conduct prohibited under section 227." Pursuant to the Federal Rules of Criminal Procedure, the Attorney General may apply for judicial warrants authorizing the seizure of such munitions, devices or equipment. In exigent circumstances, seizures and destruction may be carried out upon probable cause without a warrant. As with subsection 227A(a), this exception is intended to be used in rare instances in which the danger to public health and safety or to the environment or the danger of transfer to another country is so extreme that applying for a warrant is impracticable.

It is important to note that the term "directly" in the definitions of munitions, devices and equipment that are considered to be chemical weapons is intended to mean "solely." Thus, dual-use munitions and their components are not considered to be chemical weapons provided they do not otherwise meet this definition. For example, dual-use munitions may be used to disperse chemicals not prohibited by the Convention, such as smoke, provided the munitions have not been specifically designed to cause death through the release of toxic chemicals. Also, dual-use weapons systems such as artillery or aircraft that are capable of employing chemical weapons are not covered by this definition, and so are not subject to these provisions.

Subsection 227A(e) authorizes the Attorney General to seek the assistance of any federal agency in the handling, storage, transportation, and destruction or other disposition of any seized "chemical weapon" as defined under section 227D(2). This provision provides the Attorney General with the ability to avoid unnecessary danger to law enforcement personnel and the public by arranging for appropriate assistance from any federal agency that has the necessary resources and expertise to safely undertake the custody and disposition of hazardous chemical weapons.

Subsection 227A(f) provides for civil liability to the United States on the part of the owner or possessor of property seized as a chemical weapon under section 227A for any expenses incurred incident to such seizure including, but not limited to, expenses for handling, storage, transportation and destruction or other disposition of the seized property. Additionally, for seizures of chemical weapons in which there is a related criminal prosecution and conviction for a violation of section 227, subsection 227(d) imposes an additional criminal penalty on the convicted defendant to pay such expenses. Under the CWC, all chemical weapons must be destroyed. Therefore, given that the sale of forfeited chemical weapons in order to realize proceeds to pay the expenses associated with their seizures and forfeiture is not feasible, these provisions preserve the Department of Justice Assets Forfeiture Fund from depletion that would otherwise result from disbursements for such expenses pursuant to 28 U.S.C. 524(c)(1)(A).

New Title 18, section 227B authorizes the United States to seek injunctions against, *inter alia*, the development, production, other acquisition, stockpiling, retention, direct or indirect transfer, use, ownership or possession of chemical weapons, or the preparation or solicitation to do so. As with section 227A, section 227B is intended to permit Government action before a chemical weapon causes injury or environmental harm. Mere speech is not actionable under section 227B. Moreover, subsection 227B(b) provides an affirmative defense analogous to the one in subsection 227A(c).

New Title 18, section 227C, implements the prohibited activity contained in CWC Article I(5). Subsection 227C(a) outlaws the knowing use of riot control agents as a method of warfare and the assistance of any person to do so. Violators can be fined or imprisoned for up to ten years. Subsection 227C(b) excludes the members of the U.S. armed forces from this criminal sanction. Instead, it prescribes appropriate military penalties. This substitution is designed to eliminate the possibility that military personnel will refuse to use riot control agents in lawful situations for fear of possible criminal sanctions if such use is later ruled to be in violation of the CWC. Finally, the jurisdictional reach of this section required by CWC Article VII(1) is set forth in subsection 227C(c).

New Title 18, section 227D, contains definitions pertinent to the modifications to Title 18 of the U.S. Code. For ease in the use of Title 18, this section repeats, essentially verbatim, definitions contained in CWC Article II and, with minor changes, the definitions contained in section 5 of the Act. Specifically, this section adopts the CWC definitions for the following terms used in the modifications to Title 18: "chemical weapon" (CWC Article II(1)); "riot control agent" (CWC Article II(7)); and "purpose not prohibited under the Chemical Weapons Convention" (CWC Article II(9)). This section also repeats the following CWC terms used in the CWC definitions: "toxic chemical" (CWC Article II(2)); "precursor" (CWC Article II(3)); and "key component of a binary or multicomponent chemical system" (CWC Article II(4)). In addition, this section repeats the definitions for the following terms contained in section 5(b) of the Act: "Chemical Weapons Convention;" "national of the United States;" and "United States." Finally, this section repeats the definition for "person" contained in section 5(b)(4) of the Act, but does not limit it to those entities "located in the United States."

Subsection 201(b) contains clerical amendments for modifying chapter 11 of Title 18 of the U.S. Code.

Section 202 makes the effective date of Title II the same as the date the Convention enters into force for the United States. This ensures that the prohibitions with regard to the U.S. Government and with regard to individuals and legal entities begin at the same time. The rest of the Act is intended to become effective prior to this date in order to provide sufficient time to establish the required legal authority and procedures under the Convention. For example, information will need to be obtained from the chemical industry well in advance of the entry into force of the CWC for the United States in order for the United States to make the required declarations on chemicals listed in the CWC within 30 days after the CWC enter into force for it.

Section 203 requires individuals and legal entities to comply with the CWC's restrictions pertaining to States Parties' production, acquisition, retention, use and transfers of Schedule 1 chemicals are chemicals that have been used or produced for chemical weapons purposes, are considered of greatest risk to the CWC, and have little or no commercial utility. Schedule 2 chemicals are largely precursors used in the production of Schedule 1 chemicals. These restrictions are contained in Parts VI(1), VI(2) and VII(31) of the CWC Annex on Implementation and Verification (Verification Annex).

CWC Verification Annex Part VI(1) states that:

"A State Party shall not produce, acquire, retain or use Schedule 1 chemicals outside the territories of States Parties and shall not transfer such chemicals outside its territory except to another State Party."

The purpose of this paragraph is to ensure that these chemicals of highest risk to the Convention do not spread to non-States Parties.

CWC Verification Annex Part VI(2), in turn, states that:

"A State Party shall not produce, acquire, retain, transfer or use Schedule 1 chemicals unless:

"(a) The chemicals are applied to research, medical, pharmaceutical or protective purposes; and

"(b) The types and quantities of chemicals are strictly limited to those which can be justified for such purposes; and

"(c) The aggregate amount of such chemicals at any given time for such purposes is equal to or less than 1 [metric ton]; and

"(d) The aggregate amount for such purposes acquired by a State Party in any year throughout production, withdrawal from chemical weapons stocks and transfer is equal to or less than 1 [metric ton]."

Finally, CWC Verification Annex Part VII(31) states that:

"Schedule 2 chemicals shall only be transferred to or received from States Parties. This obligation shall take effect three years after entry into force of [the] Convention."

The main purposes of these paragraphs are to serve as a disincentive for countries to remain outside of the Convention, to facilitate verification, and to deny chemical weapons precursors to non-States Parties.

Subsection 203(a) implements Part VI(2) of the CWC Verification Annex by making it unlawful to produce, acquire, retain, transfer or use Schedule 1 chemicals unless they are used for permitted purposes, the types and quantities are strictly limited to those that can be justified for such purposes, and the amounts do not exceed limits to be established by the U.S. Government. The aggregate amount of Schedule 1 chemicals in the United States as a whole may not exceed one metric ton. A portion of this quota will be needed by the U.S. Government for protective purposes such as determining the adequacy of defensive equipment and measures. The remainder of the quota will be apportioned among private individuals and legal entities doing permitted work with Schedule 1 chemicals.

Subsection 203(b) implements Parts VI(1) and VII(31) of the CWC Verification Annex.

Paragraph 1 of subjection 203(b) makes it unlawful to produce, acquire, retain, transfer or use Schedule 1 chemicals outside the territories of States Parties. Paragraph 2 of subsection 203(b) makes it unlawful to transfer to, or receive from, non-States Parties any Schedule 2 chemicals. Note that this is intended as a prohibition with regard to end-users. It does not prohibit transshipments through the territories of non-States Parties.

Subsection 203(c) sets forth the jurisdiction of the prohibitions contained in this section. The jurisdictional reach is the same as required in CWC Article VII(1)—all activities within the United States and all activities undertaken by individuals with U.S. citizenship outside the United States. Accordingly, subsections 203(a) and (b) apply to all persons (defined as all entities within the United States) and all nationals of the United States (defined as U.S. citizens) outside the United States.

The civil and criminal procedures and penalties for violations of section 203 are set forth in section 404. The authority of U.S. district courts to enforce section 203 is set forth in section 405.

Title III—Declarations by Chemical Industry

Title III contains three sections. It sets forth provisions regarding reporting of information required by the Convention, restrictions on disclosure of information and material obtained under the Convention, and failure to provide information. A number of these provisions are modeled after similar provisions in the Toxic Substances Control Act (TSCA), Public Law 94-469. The verification regime for controlling emissions of the chemical industry under the TSCA is the closest analogy in U.S. domestic law to the verification regime created by the CWC.

Section 301 pertains to chemical industry reporting requirements and coordination among U.S. Government departments and agencies in collecting required information. Subsection 301(a) requires chemical industry to maintain, permit access to, and provide to the Department of Commerce the information necessary for the United States to make the declarations required under the Convention. To help ensure that the chemical industry is not producing chemical weapons, the CWC requires declaration and inspection of the chemical facilities most capable of conducting such activities. CWC Article VI and Parts VI-IX of the CWC Verification Annex set forth the various requirements for declarations of chemicals and chemical facilities. These provisions require facility-specific declarations of specific chemicals of concern to the Convention (which are listed in the CWC in Schedules 1 to 3) that are produced (and in some cases processed or consumed) above certain thresholds (which start as high as 200 metric tons per year). In addition, certain chemical facilities that produce unscheduled chemicals that could be used to produce scheduled chemicals must be declared. Subsection 301(a) is based on similar language contained in the TSCA, 15 U.S.C. 2607(a)(1)(A).

Subsection 301(b), in turn, requires agencies and departments to avoid duplication of reporting required by other laws (e.g., TSCA) by, inter alia, coordinating their actions with other agencies and departments. This section is based on similar language contained in the TSCA, 15 U.S.C. 2607(a)(2)(G).

Section 302 restricts the public disclosure of the information and materials required by the CWC, provides criminal penalties for wrongful disclosure, and applies these provisions to the international inspectors. Subsection 302(a) provides, with certain exceptions, for an extensive prohibition on the public disclosure of information or materials obtained from declarations or inspections required under the CWC. (The term "materials" was included to protect such things as samples of chemicals. The term "public disclosure" is intended to make clear that the exchange of information or materials among government agencies and departments is not covered by this provision.) This provision is designed to provide chemical industry and any other persons affected by declarations and inspections under the CWC with the greatest amount of protection for their information and materials possible. Specifically, this provision is intended to make clear that information or materials obtained from declarations or inspections shall not be required to be disclosed pursuant to the Freedom of Information Act (5 U.S.C. 552), and may be disclosed only in accordance with the criteria set forth in the provision. This will allow the U.S. Government to protect all such information or materials without requiring an inquiry into whether there are, e.g., proprietary interests in such information or materials. This provision is based, in part, on protections for license applications under the Export Administration Act (EAA), 50 App. U.S.C. 2411(c)(1).

These protections are in addition to those already contained in the CWC. The CWC verification regime provides for a range of provisions intended to protect non-relevant or sensitive information. This includes, e.g., the opportunity for an inspected facility to have a facility agreement specifying the nature of access and the information to be collected in routine inspections, the right of the United States to manage access in challenge inspections, the right of the inspected facility to take the photographs or samples requested by the inspection team, and the right of the United States to inspect the inspection equipment brought in by the inspection team. In addition, the CWC Annex on the Protection of Confidential Information (Confidentiality Annex) contains provisions that provide for the protection of information designated confidential by States Parties that is provided to the OPCW. Finally, the Confidentiality Annex establishes procedures to address concerns or allegations of breaches of such obligations and provides for punitive measures where appropriate.

There are four exceptions to the extensive prohibition on disclosure—disclosures to the OPCW and other States Parties to the Convention, disclosures to appropriate Congressional committees and subcommittees, disclosures to agencies and departments for law enforcement purposes, and disclosures determined to be in the national interest.

The first exception allows the United States to report the information and materials to the OPCW as required by the CWC. It also allows the United States to disclose information and materials to other States Parties, which will assist the United States, *inter alia*, in complying with the CWC Article VII(2) obligation to afford other States Parties the appropriate legal assistance in facilitating the implementation of the Convention. The second exception is designed to ensure that the appropriate Congressional personnel have access to the information while providing as much protection as possible. This exception is modeled on similar language in the EAA, 50 App. U.S.C. 2411(c)(2). The third exception is designed primarily for the situation in which U.S. Government personnel accompanying inspectors happen to witness evidence of a crime. In such a case, the Government would not be precluded from using such information in any subsequent prosecution. This exception would, therefore, permit the Government to use information or materials obtained during inspections in regulatory, civil or criminal proceedings conducted for the purpose of law enforcement, including those that are not directly related to enforcement of the CWC. The final exception is designed to provide the U.S. Government discretion to release information or materials when to do so would be in the national interest. For example, in order to provide openness regarding U.S. chemical activities, non-sensitive information such as lists of facilities might be released. This exception is modeled on similar language in the EAA, 50 App. U.S.C. 2411(c)(1).

Subsection 302(b) provides for advance notice to the supplier of information or materials in appropriate cases when the U.S. Government intends to exercise the national interest provision to release information or materials. This provision is designed to provide affected persons with the opportunity to prepare for, *inter alia*, the direct public disclosure of information or materials. This subsection is modeled, in part, on language contained in the TSCA, 15 U.S.C. 2613(c)(2)(a).

Subsection 302(c) provides for criminal penalties for unauthorized willful disclosures of information or materials obtained pursuant to the CWC. This is designed to strengthen the non-disclosure protections afforded chemical industry and other persons affected by the CWC and is modeled after nearly-identical language in the TSCA, 15 U.S.C. 2613(d)(1).

Subsection 302(d) provides for application of the disclosure provisions to the members of the international inspection teams. In general, members of OPCW inspection teams and other Technical Secretariat personnel are immune from domestic laws during their performance of official duties within a State Party (CWC Article VIII, Section E, and Part II, Section B, of the CWC Verification Annex). However, the Director-General of the Technical Secretariat can waive such immunity from suit in U.S. courts for their official acts, as provided for in Part II(14) of the CWC Verification Annex and paragraph 20 of the CWC Confidentiality Annex. Accordingly, subsection 302(d) provides the legal authority to prosecute members of the inspection team and other Technical Secretariat personnel for unauthorized disclosure when the Director-General has waived their immunity.

Section 303 makes it unlawful for any person to fail or refuse to establish, maintain, submit or permit access to records that are required by the CWC. The civil and criminal penalties for such violations are set forth in section 404 and the specific enforcement powers for violations are set forth in section 405. Section 303 is modeled after similar language in the TSCA, 15 U.S.C. 2614(3).

Title IV—Inspections

Title IV consists of seven sections. It contains procedures for conducting international inspections of chemical industry, as well as for conducting other types of inspections under the CWC. It also contains penalties for failure or refusal to allow such inspections in violation of the Act (as well as for failure to provide information required by the CWC and failure to abide by the restrictions with regard to Schedule 1 and 2 chemicals). Finally, Title IV establishes other legal mechanisms for compelling non-consensual inspections, such as search warrants, and the authority to issue necessary

regulations. As with Title III, a number of these provisions are modeled after similar provisions in the Toxic Substances Control Act.

Section 401 provides the domestic legal framework for the conduct of inspections of chemical industry by the international inspectors of the Technical Secretariat. Specifically, it sets forth procedures with regard to authority to inspect, provision of notice and credentials, time frames for inspections, scope of inspections, facility agreements, sampling and safety, and coordination among U.S. Government agencies and departments. While designed primarily for routine inspections of chemical industry (which are expected to constitute the vast majority of non-military inspections within the United States), these procedures are also designed to be used for any other inspections required by the Convention, e.g., challenge inspections of private facilities.

CWC Article VI and Parts VI–IX of the CWC Verification Annex set forth the various requirements for routine inspections of chemical facilities. The chemical industry facilities subject to routine inspections are those that produce (and in some cases, process or consume) chemicals listed in the CWC Schedules (provided this occurs above certain thresholds). In addition, chemical industry facilities that produce unscheduled discrete organic chemicals above specified threshold levels will be subject to inspection beginning three years after the CWC enters into force, unless the OPCW Conference of the States Parties decides otherwise. The Specific facilities to be inspected will be chosen on the basis of neutral and objective criteria and methods, including weighted random selection, equitable geographic distribution of inspections, and the characteristics of the facility and the nature of activities carried out there. The rules for the conduct of routine inspections, including scope, aim, time frames and protection of proprietary and other sensitive information are set forth in Parts VI–IX of the CWC Verification Annex, the CWC Confidentiality Annex and the detailed implementing provisions currently being developed by the Preparatory Commission for the OPCW. For many facilities, the specific implementation of these rules will be agreed *a priori* in facility agreements between the United States and the OPCW.

In addition to routine inspections, chemical industry facilities and all other facilities or locations in the United States potentially may be subjected to challenge inspections pursuant to CWC Article IX. Challenge inspections are conducted by the CWC Technical Secretariat upon the request of a State Party that has a concern about compliance with the Convention. Access to the challenged site must be granted by the inspected State Party, but all activities within the site are subject to "managed access," i.e., the nature and extent of access by inspection team is subject to negotiation. (To balance this, however, the CWC requires States Parties to make every reasonable effort to provide alternative methods of demonstrating compliance when full access is not provided.) Under managed access, in addition to the extent of access within the site, the particular inspection team activities and the performance of activities and provision of information by the inspected State Party are also subject to negotiation.

Subsection 401(a) authorizes the Technical Secretariat inspection team to conduct inspections of U.S. facilities and U.S. Government personnel to accompany these inspection teams. This subsection is based, in part, on similar language contained in the TSCA, 15 U.S.C. 2610(a). It is important to note that these are procedures for international inspections that involve U.S. Government assistance. Title IV does not provide for separate inspections by the U.S. Government to enforce the CWC. Instead, for the purposes of U.S. law, the CWC will be enforced by the normal civil and criminal processes, although, as previously noted, information gathered during international inspections is not precluded from being used in these processes.

Subsection 401(b) requires the U.S. Government to provide notices of inspections and sets forth the required recipients and contents of such notices. It is based, in part, on similar language contained in the TSCA, 15 U.S.C. 2610(a). Separate notices are given to the owner of the facility and to the operator, occupant or agent in charge of the facility. While a notice is required to conduct an inspection, failure to receive a notice cannot bar an inspection. This provision is necessary in order to fulfill the U.S. CWC obligation to allow inspections to proceed within 48 to 120 hours of the receipt by the United States of notice from the Technical Secretariat. Because of these short time frames, the written notice required by this subsection could be made by electronic means such as facsimiles. The notice provided by the U.S. Government will contain all appropriate information supplied by the Technical Secretariat. This means the United States will provide as much information as possible but is not required to provide all information since this may involve classified or other sensitive foreign policy or national security information. Finally, separate notices are not required for each entry.

Subsection 401(c) requires the Technical Secretariat and, if present at the inspection, U.S. Government personnel to present appropriate credentials. While it is anticipated that, at least for the first few years of the Convention, U.S. government escorts will be furnished for all inspection teams, over time such escorts may not be required for all inspections. This subsection is based, in part, on similar language contained in the TSCA, 15 U.S.C. 2610(a).

Subsection 401(d) requires that, consistent with the provisions of the SWC, all inspections must be commenced and completed with reasonable promptness and conducted at reasonable times, within reasonable limits, and in a reasonable manner. In particular, the U.S. Government must endeavor to ensure that, to the extent possible consistent with the CWC, each inspection is commenced, conducted and concluded during ordinary working hours. (However, the inspectors are permitted by the CWC to work around-the-clock since the duration of inspections under the CWC is set in continuous hours.)

The CWC itself sets forth the specific rules for conducting inspections, including such things as duration, aim, and rights of the inspectors and the inspected State Party. While some of these are fixed, others are subject to negotiation. Accordingly, the purpose of this subsection is to commit the U.S. government to exercising its influence on behalf of inspected facilities to ensure that inspections are conducted in a reasonable manner. This complements the general obligation of the U.S. Government to assist inspected facilities in interacting with the inspection team, as set forth in subsection 401(h). Subsection 401(d) is based, in part, on similar language contained in the TSCA, 15 U.S.C. 2610(a).

Subsection 401(e) sets forth the permitted scope of inspections conducted pursuant to the CWC. In general, an inspection may extend to all things within the premises inspected related to whether the CWC has been complied with. However, to the extent possible consistent with the CWC, no inspection can extend to financial, sales and marketing (other than shipment), pricing, personnel, research, patent or environmental/health regulations data. This data is considered to be, in general, the most sensitive to proprietary concerns and the least relevant to compliance with the CWC. The United States cannot flatly prohibit collection of this information by the Technical Secretariat. Nevertheless, this subsection is intended to commit the U.S. Government to exercising its influence on behalf of inspected facilities to ensure that, to the extent permitted by the CWC, information not relevant to compliance with the CWC is protected from disclosure. As with subsection 401(d), this complements the subsection 401(h) obligation of the U.S. Government to assist inspected facilities in interacting with the inspection team. Subsection 401(e) is based on similar language contained in the TSCA, 15 U.S.C. 2610(b)(1) and (2).

Subsection 401(f) provides for the conclusion of facility agreements and the participation of facilities in negotiating such agreements. The CWC provides for facility agreements as a means of agreeing with States Parties, in advance, on the detailed procedures that will govern routine inspections of a declared facility. (These detailed procedures will be based on general procedures for inspections contained in the CWC and developed by the OPCW Preparatory Commission and approved by the OPCW.) While the CWC contemplates the participation of the facility in agreeing on these details, the actual facility agreement is between the State Party, i.e., the United States, and the OPCW. Facility agreements are required for all chemical weapons production, destruction and storage facilities and for Schedule 1 facilities. Facility agreements are to be concluded for Schedule 2 facilities unless the State Party and the Technical Secretariat agree otherwise. Facility agreements may be concluded for Schedule 3 facilities and "other chemical production facilities" if the State Party requests them.

To implement these provisions, subsection 401(f) provides that for facilities that have facility agreements routine inspections will be conducted in accordance with those agreements. For Schedule 2 facilities, this subsection gives owners and operators, occupants or agents in charge the right to refuse a facility agreement, if the Technical Secretariat concurs. For Schedule 3 facilities and other chemical production facilities, subsection 401(f) establishes the expectation that the U.S. Government will conclude facility agreements with the OPCW for those facilities that request them. Finally, subsection 401(f) makes clear that facility owners and operators, occupants, or agents in charge of the facilities are to be involved in the negotiations of all required and requested facility agreements to the extent that it is practicable, consistent with U.S. obligations under the CWC.

Subsection 401(g) authorizes the U.S. Government to require the provision of samples as required by the Convention and requires CWC inspectors and accompanying U.S. Government personnel to observe the safety regulations of the inspected facility. Since provision of the wide range of samples contemplated by the CWC is not a common component of domestic inspection regimes, this

subsection is intended to make clear that the U.S. Government is authorized to take this action. The provision on safety regulations expands to U.S. Government personnel the identical obligation for CWC inspection teams contained in Part II(43) of the CWC Verification Annex. Finally, this subsection makes clear that inspected facilities will have the right to choose who will take the samples.

Subsection 401(h) requires the U.S. Government, to the extent consistent with the CWC, to assist inspected facilities in interacting with the inspection team. Accordingly, this creates a general obligation for the U.S. Government to use its discretionary power under the CWC in support of inspected facilities. However, this does not require the U.S. Government to disregard other CWC obligations and policy considerations such as the obligation to make every reasonable effort to resolve compliance concerns where full access has not been provided for challenge inspections.

Section 402 provides for application of Title IV to all inspections authorized by the CWC. The Administration has proposed that the Department of Commerce be the agency responsible for routine inspections of chemical industry. Implementation of other types of inspections may require different departments or agencies to be responsible for the inspection, depending on the specific situation. Accordingly, this section provides for a "Lead Agency" to assume the responsibilities of the Department of Commerce for inspections that do not involve routine inspections of the chemical industry. (The Lead Agency could remain as the Department of Commerce for some or all aspects of other inspections, e.g., providing notice of challenge inspections of chemical industry.)

This is particularly important for legal proceedings with regard to inspections. For example, application for an administrative search warrant for a non-consensual routine inspection may involve a particular agency or department while application for a warrant for a non-consensual challenge inspection might more appropriately be handled by the Department of Justice.

Section 403 makes it unlawful for any person to fail or refuse to permit entry or inspection, or to disrupt, delay or impede an inspection required by the Act and the CWC. The CWC allows inspected facilities, particularly during challenge inspections, to take actions to protect sensitive information. Such actions would not be considered as disrupting, delaying or impeding an inspection. This provision is intended to cover only those actions not permitted by the CWC.

Section 403 serves as the basic legal cornerstone for ensuring that the United States can fulfill its obligation under the CWC to allow inspections by the Technical Secretariat. The civil and criminal procedures and penalties for violations of this section are set forth in section 404. The authority of U.S. district courts to enforce section 403 is set forth in section 405. Section 403 is based on nearly identical language contained in the TSCA, 15 U.S.C. 2614(4).

Section 404 sets forth civil and criminal penalties for violations of section 403, as well as for violations of sections 203 and 303. (Section 203 contains restrictions with regard to Schedule 1 and 2 chemicals. Section 303 makes unlawful any refusal to provide information or materials required under the Act.) Subsection 404(a) provides for civil penalties, hearings, consideration by the Lead Agency of the circumstances of the violations, modifications to the penalties, and recovery of penalties. It is modeled after nearly identical language in the TSCA, 15 U.S.C. 2615(a)(1), (a)(2)(A), (a)(2)(B), (a)(2)(C), (a)(3) and (b).

Subsection 404(a) provides for civil penalties of up to $50,000 for violations of sections 203, 303 or 403. It further provides that for violations involving refusal to provide access (section 403), each day such a violation continues will constitute a separate violation. The purpose of this latter provision is to place additional pressure on those who refuse access. This creates an important additional legal mechanism for enabling the United States to meet its treaty obligation to provide access to facilities and locations that are subject to inspection under the CWC.

Subsection 404(a) also requires notice and a hearing prior to assessment of the penalty, requires the Lead Agency to take into account factors such as the circumstances of the violation and the violator's ability to pay, allows the Lead Agency to modify and penalty, and provides for judicial review of the penalty. This subsection also authorizes the Attorney General to recover the amounts assessed, plus interest, where the violator fails to pay the penalty.

Subsection 404(b) provides that any person who knowingly violates sections 203, 303 or 403 is also subject to criminal fines or imprisonment up to two years or both.

Section 405 pertains to specific enforcement. Subsection 405(a) authorizes U.S. district courts to restrain violations of sections 203, 303 and 403 and to compel the taking of any action required by the Act or the CWC. This provision is modeled after nearly identical language in the TSCA, 15 U.S.C. 2616(a)(1)(A) and (C).

Subsection 405(b) sets forth the venue for bringing the civil action to restrain or compel activities and the localities where process may be served. This provision is modeled after similar language in the TSCA, 15 U.S.C. 2616(a)(2) (A) and (B). Because the Act applies to the activities of U.S. citizens outside of the United States, service of process is allowed wherever the defendant may be found. (Assistance by other States Parties in serving process would be an example of the legal assistance required pursuant to CWC Article VII(2).)

Section 406 sets forth additional legal mechanisms for ensuring that the U.S. can fulfill its CWC inspection obligations within the time frames allowed in cases when consent is not given for the inspection or the inspection is otherwise illegally resisted. This section provides for the issuance of search warrants and subpoenas and a prohibition on the use of injunctions by U.S. courts to constrain the conduct of inspections. These legal mechanisms, together with the threat of penalties for violations of section 403, are particularly important in the case of challenge inspections, which may involve facilities or locations that have little or no connection to the CWC. Even in these cases, Part X(38) of the CWC Verification Annex requires the U.S. Government to provide access within the challenged site. In turn, Part X(41) provides that in meeting this requirement the inspected State Party is under the obligation to provide "the greatest degree of access taking into account any constitutional obligations it may have with regard to proprietary rights or search and seizures." Accordingly, the provisions of Section 406 have been drafted to provide the U.S. Government with the legal tools, consistent with the U.S. Constitution, to enable it to fulfill these obligations.

Subsection 506(a) provides procedures for requesting and issuing a search warrant from any official authorized to issue search warrants in accordance with the Fourth Amendment. These procedures are designed to meet constitutional requirements for the issuance of warrants on the basis of "administrative probable cause," i.e., the standards for issuing warrants under administrative inspections rather than the standards used for criminal searches. (These procedures can also be used to obtain criminal search warrants, however.)

Under these procedures, the Government must provide to the official authorized to issue search warrants all appropriate information supplied by the Technical Secretariat regarding the basis for the selection of the facility or location, including, for challenge inspections, appropriate evidence or reasons provided by the requesting State Party with regard to its concerns about compliance with the Convention at the facility or location. The Government would also be required to provide any other appropriate information available to it related to the reasonableness of the selection of the location for the inspection.

Under the procedures, the official authorized to issue search warrants would then be required to promptly issue a warrant authorizing the requested inspection if an affidavit is submitted by the Government showing that the CWC is in force for the United States; the facility sought to be inspected is subject to the specific type of inspection requested; the procedures established under the CWC and the implementing legislation for initiating an inspection have been complied with; and the Government undertakes to ensure that the inspection is conducted in a reasonable manner and will not exceed the scope or duration set forth in or authorized by the CWC or the Act. Persons authorized to issue warrants would include federal magistrates and judges. The warrant must specify the type of inspection authorized; the purpose of the inspection; the type of facility to be inspected; to the extent possible, the items, documents and areas that may be inspected; the earliest commencement and latest concluding dates and times of the inspection; and the identities of the inspection team, if known, and, if applicable, the representatives of the U.S. Government.

Subsection 406(b) authorizes subpoenas requiring the attendance and testimony of witnesses and the production of information, and provides for compelling such action by U.S. district courts. This subsection is intended to ensure that the United States can fulfill its obligation under the CWC to provide information regarding compliance, in particular, its obligation pursuant to CWC Article IX(11)(a) to make every reasonable effort to demonstrate its compliance with the Convention. This section is based on nearly identical language contained in the TSCA, 15 U.S.C. 2610(c).

Subsection 406(c) prohibits courts from issuing injunctions or other orders limiting the ability of the Technical Secretariat to conduct inspections or the U.S. Government to facilitate them. If such injunctions or other orders are allowed the United States could be placed in the position of having to violate its obligation to allow inspections. For example, a temporary restraining order blocking an inspection could be issued by a federal court even though a search warrant had been validly authorized pursuant to the Act. Such an action, even if later reversed, might easily keep the United States from

granting access to an inspected facility within the two to five days allowed for most routine inspections. A U.S. domestic law example of this provision is the Anti-Injunction Law, 29 U.S.C. 101, which prohibits U.S. courts from issuing injunctions with regard to certain labor disputes.

Section 407 provides the U.S. Government with the authority to issue such regulations as are necessary to implement the inspection regime created by the CWC and the Act. This section also authorizes the appointment of officials to issue search warrants.

U.S. ARMS CONTROL
AND DISARMAMENT AGENCY,
Washington, DC, May 27, 1994.

Hon. ALBERT GORE, Jr.,
President, U.S. Senate.

DEAR MR. PRESIDENT: On behalf of the Administration, I hereby submit for consideration the "Chemical Weapons Convention Implementation Act of 1994." The Chemical Weapons Convention (CWC) was signed by the United States in Paris on January 13, 1993, and was submitted by President Clinton to the United States Senate on November 23, 1993, for its advice and consent to ratification. The CWC prohibits, inter alia, the use, development, production, acquisition, stockpiling, retention, and direct or indirect transfer of chemical weapons.

The President has urged the Senate to provide its advice and consent to ratification as early as possible so that the United States can continue to exercise its leadership role in seeking the earliest possible entry into force of the Convention in January 1995.

The CWC contains a number of provisions that require implementing legislation to give them effect within the United States. These include: International inspections of U.S. facilities; declarations by U.S. chemical and related industry; and establishment of a "National Authority" to serve as the liaison between the United States and the international organization established by the CWC and States Parties to the Convention.

In addition, the CWC requires the United States to prohibit all individuals and legal entities, such as corporations, within the United States, as well as all individuals outside the United States possessing U.S. citizenship, from engaging in activities that are prohibited under the Convention. As part of this obligation, the CWC requires the U.S. to enact "penal" legislation implementing this prohibition (i.e., legislation that penalizes conduct, either by criminal, administrative, military or other sanctions.)

The proposed "Chemical Weapons Convention Implementation Act of 1994" reflects views expressed from representatives of industry as well as from the staff of various congressional committees.

Expeditious enactment of implementing legislation is very important to the ability of the United States to fulfill its treaty obligations under the Convention. Enactment will enable the United States to collect the required information from industry, to allow the inspections called for in the Convention, and to outlaw all activities related to chemical weapons, except CWC permitted activities, such as chemical defense programs.

The Omnibus Budget and Reconciliation Act (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and if it does, it must trigger a sequester if not fully offset. This proposal would increase receipts by less than $500,000 a year.

As the President indicated in his transmittal letter of the Convention: "The CWC is in the best interests of the United States, allied and international security, and enhanced global and regional stability." Therefore, I urge the Congress to enact the necessary implementing legislation as soon as possible after the Senate has given its advice and consent to ratification.

The Office of Management and Budget advises that there is no objection to the submission of this proposal and its enactment is in accord with the President's program.

Sincerely,

JOHN D. HOLUM,
Director.

By Mr. MITCHELL (for himself, Mr. COHEN, Mr. LEAHY, and Mr. JEFFORDS):

S. 2222. A bill to grant the consent of Congress to the Texas Low-Level Radioactive Waste Disposal Compact; to the Committee on the Judiciary.

TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT CONSENT ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the bill as introduced be printed in the RECORD.

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

S. 2222

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 "Texas Low-Level Radioactive Waste Disposal Compact Consent Act".

SEC. 2. CONGRESSIONAL FINDING.

Congress finds that the compact set forth in section 5 is in furtherance of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b et seq.).

SEC. 3. CONDITIONS OF CONSENT TO COMPACT.

The consent of Congress to the compact set forth in section 5—

(1) shall become effective on the date of the enactment of this Act;

(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b et seq.); and

(3) is granted only for so long as the regional commission established in the compact complies with all of the provisions of such Act.

SEC. 4. CONGRESSIONAL REVIEW.

Congress may alter, amend, or repeal this Act with respect to the compact set forth in section 5 after the expiration of the 10-year period following the date of enactment of this Act, and at such intervals thereafter as may be provided in such compact.

SEC. 5. TEXAS LOW-LEVEL RADIOACTIVE WASTE COMPACT.

(a) CONSENT OF CONGRESS.—In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of Congress is given to the States of Texas, Maine, and Vermont to enter into such compact.

(b) TEXT OF COMPACT.—Such compact reads substantially as follows:

"TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT

"ARTICLE I. POLICY AND PURPOSE

"SEC. 1.01. The party states recognize a responsibility for each state to seek to manage low-level radioactive waste generated within its boundaries, pursuant to the Low-Level Radioactive Waste Policy Act, as amended by the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. 2021b–2021j). They also recognize that the United States Congress, by enacting the Act, has authorized and encouraged states to enter into compacts for the efficient management and disposal of low-level radioactive waste. It is the policy of the party states to cooperate in the protection of the health, safety, and welfare of their citizens and the environment and to provide for and encourage the economical management and disposal of low-level radioactive waste. It is the purpose of this compact to provide the framework for such a cooperative effort; to promote the health, safety, and welfare of the citizens and the environment of the party states; to limit the number of facilities needed to effectively, efficiently, and economically manage low-level radioactive waste and to encourage the reduction of the generation thereof; and to distribute the costs, benefits, and obligations among the party states; all in accordance with the terms of this compact.

"ARTICLE II. DEFINITIONS

"SEC. 2.01. As used in this compact, unless the context clearly indicates otherwise, the following definitions apply:

"(1) 'Act' means the Low-Level Radioactive Waste Policy Act, as amended by the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. 2021b–2021j).

"(2) 'Commission' means the Texas Low-Level Radioactive Waste Disposal Compact Commission established in Article III of this compact.

"(3) 'Compact facility' or 'facility' means any site, location, structure, or property located in and provided by the host state for the purpose of management or disposal of low-level radioactive waste for which the party states are responsible.

"(4) 'Disposal' means the permanent isolation of low-level radioactive waste pursuant to requirements established by the United States Nuclear Regulatory Commission and the United States Environmental Protection Agency under applicable laws, or by the host state.

"(5) 'Generate,' when used in relation to low-level radioactive waste, means to produce low-level radioactive waste.

"(6) 'Generator' means a person who produces or processes low-level radioactive waste in the course of its activities, excluding persons who arrange for the collection, transportation, management, treatment, storage, or disposal of waste generated outside the party states, unless approved by the commission.

"(7) 'Host county' means a county in the host state in which a disposal facility is located or is being developed.

"(8) 'Host state' means a party state in which a compact facility is located or is being developed. The State of Texas is the host state under this compact.

"(9) 'Institutional control period' means that period of time following closure of the facility and transfer of the facility license from the operator to the custodial agency in compliance with the appropriate regulations for long-term observation and maintenance.

"(10) 'Low-level radioactive waste' has the same meaning as that term is defined in Section 2(9) of the Act (42 U.S.C. 2021b(9)), or in the host state statute so long as the waste is not incompatible with management and disposal at the compact facility.

"(11) 'Management' means collection, consolidation, storage, packaging, or treatment.

"(12) 'Operator' means a person who operates a disposal facility.

"(13) 'Party state' means any state that has become a party in accordance with Article VII of this compact. Texas, Maine, and Vermont are initial party states under this compact.

"(14) 'Person' means an individual, corporation, partnership or other legal entity, whether public or private.

"(15) 'Transporter' means a person who transports low-level radioactive waste.

"ARTICLE III. THE COMMISSION

"SEC. 3.01. There is hereby established the Texas Low-Level Radioactive Waste Disposal Compact Commission. The commission shall consist of one voting member from each party state except that the host state shall be entitled to six voting members. Commission members shall be appointed by the party state governors, as provided by the laws of each party state. Each party state may provide alternates for each appointed member.

"SEC. 3.02. A quorum of the commission consists of a majority of the members. Except as otherwise provided in this compact, an official act of the commission must receive the affirmative vote of a majority of its members.

"SEC. 3.03. The commission is a legal entity separate and distinct from the party states and has governmental immunity to the same extent as an entity created under the authority of Article XVI, Section 59, of the Texas Constitution. Members of the commission shall not be personally liable for actions taken in their official capacity. The liabilities of the commission shall not be deemed liabilities of the party states.

"SEC. 3.04. The commission shall:

"(1) Compensate its members according to the host state's law.

"(2) Conduct its business, hold meetings, and maintain public records pursuant to laws of the host state, except that notice of public meetings shall be given in the non-host party states in accordance with their respective statutes.

"(3) Be located in the capital city of the host state.

"(4) Meet at least once a year and upon the call of the chair, or any member. The governor of the host state shall appoint a chair and vice-chair.

"(5) Keep an accurate account of all receipts and disbursements. An annual audit of the books of the commission shall be conducted by an independent certified public accountant, and the audit report shall be made a part of the annual report of the commission.

"(6) Approve a budget each year and establish a fiscal year that conforms to the fiscal year of the host state.

"(7) Prepare, adopt, and implement contingency plans for the disposal and management of low-level radioactive waste in the event that the compact facility should be closed. Any plan which requires the host state to store or otherwise manage the low-level radioactive waste from all the party states must be approved by at least four host state members of the commission. The commission, in a contingency plan or otherwise, may not require a non-host party state to store low-level radioactive waste generated outside of the state.

"(8) Submit communications to the governors and to the presiding officers of the legislatures of the party states regarding the activities of the commission, including an annual report to be submitted on or before January 31 of each year.

"(9) Assemble and make available to the party states, and to the public, information concerning low-level radioactive waste management needs, technologies, and problems.

"(10) Keep a current inventory of all generators within the party states, based upon information provided by the party states.

"(11) By no later than 180 days after all members of the commission are appointed under Section 3.01 of this article, establish by rule the total volume of low-level radioactive waste that the host state will dispose of in the compact facility in the years 1995–2045, including decommissioning waste. The shipments of low-level radioactive waste from all non-host party states shall not exceed 20 percent of the volume estimated to be disposed of by the host state during the 50-year period. When averaged over such 50-year period, the total of all shipments from non-host party states shall not exceed 20,000 cubic feet a year. The commission shall coordinate the volumes, timing, and frequency of shipments from generators in the non-host party states in order to assure that over the life of this agreement shipments from the non-host party states do not exceed 20 percent of the volume projected by the commission under this paragraph.

"SEC. 3.05. The commission may:

"(1) Employ staff necessary to carry out its duties and functions. The commission is authorized to use to the extent practicable the services of existing employees of the party states. Compensation shall be as determined by the commission.

"(2) Accept any grants, equipment, supplies, materials, or services, conditional or otherwise, from the federal or state government. The nature, amount and condition, if any, of any donation, grant or other resources accepted pursuant to this paragraph and the identity of the donor or grantor shall be detailed in the annual report of the commission.

"(3) Enter into contracts to carry out its duties and authority, subject to projected resources. No contract made by the commission shall bind a party state.

"(4) Adopt, by a majority vote, bylaws and rules necessary to carry out the terms of this compact. Any rules promulgated by the commission shall be adopted in accordance with the Administrative Procedure and Texas Register Act (Article 6252–13a, Vernon's Texas Civil Statutes).

"(5) Sue and be sued and, when authorized by a majority vote of the members, seek to intervene in administrative or judicial proceedings related to this compact.

"(6) Enter into an agreement with any person, state, regional body, or group of states for the importation of low-level radioactive waste into the compact for management or disposal, provided that the agreement receives a majority vote of the commission. The commission may adopt such conditions and restrictions in the agreement as it deems advisable.

"(7) Upon petition, allow an individual generator, a group of generators, or the host state of the compact, to export low-level waste to a low-level radioactive waste disposal facility located outside the party states. The commission may approve the petition only by a majority vote of its members. The permission to export low-level radioactive waste shall be effective for that period of time and for the specified amount of low-level radioactive waste, and subject to any other term or condition, as is determined by the commission.

"(8) Monitor the exportation outside of the party states of material, which otherwise meets the criteria of low-level radioactive waste, where the sole purpose of the exportation is to manage or process the material for recycling or waste reduction and return it to the party states for disposal in the compact facility.

"SEC. 3.06. Jurisdiction and venue of any action contesting any action of the commission shall be in the United States District Court in the district where the commission maintains its office.

"ARTICLE IV. RIGHTS, RESPONSIBILITIES, AND OBLIGATIONS OF PARTY STATES

"SEC. 4.01. The host state shall develop and have full administrative control over the development, management and operation of a facility for the disposal of low-level radioactive waste generated within the party states. The host state shall be entitled to unlimited use of the facility over its operating life. Use of the facility by the non-host party states for disposal of low-level radioactive waste, including such waste resulting from decommissioning of any nuclear electric generation facilities located in the party states, is limited to the volume requirements of Section 3.04(11) of Article III.

"SEC. 4.02. Low-level radioactive waste generated within the party states shall be disposed of only at the compact facility, except as provided in Section 3.05(7) of Article III.

"SEC. 4.03. The initial states of this compact cannot be members of another low-level radioactive waste compact entered into pursuant to the Act.

"SEC. 4.04. The host state shall do the following:

"(1) Cause a facility to be developed in a timely manner and operated and maintained through the institutional control period.

"(2) Ensure, consistent with any applicable federal and host state laws, the protection and preservation of the environment and the public health and safety in the siting, design, development, licensing, regulation, operation, closure, decommissioning, and long-term care of the disposal facilities within the host state.

"(3) Close the facility when reasonably necessary to protect the public health and safety of its citizens or to protect its natural resources from harm. However, the host state shall notify the commission of the closure within three days of its action and shall, within 30 working days of its action, provide a written explanation to the commission of the closure, and implement any adopted contingency plan.

"(4) Establish reasonable fees for disposal at the facility of low-level radioactive waste generated in the party states based on disposal fee criteria set out in Sections 402.272 and 402.273, Texas Health and Safety Code. The same fees shall be charged for the disposal of low-level radioactive waste that was generated in the host state and in the non-host party states. Fees shall also be sufficient to reasonably support the activities of the commission.

"(5) Submit an annual report to the commission on the status of the facility, including projections of the facility's anticipated future capacity, and on the related funds.

"(6) Notify the Commission immediately upon the occurrence of any event which could cause a possible temporary or permanent closure of the facility and identify all reasonable options for the disposal of low-level radioactive waste at alternate compact facilities or, by arrangement and commission vote, at noncompact facilities.

"(7) Promptly notify the other party states of any legal action involving the facility.

"(8) Identify and regulate, in accordance with federal and host state law, the means

and routes of transportation of low-level radioactive waste in the host state.

"SEC. 4.05. Each party state shall do the following:

"(1) Develop and enforce procedures requiring low-level radioactive waste shipments originating within its borders and destined for the facility to conform to packaging, processing, and waste form specifications of the host state.

"(2) Maintain a registry of all generators within the state that may have low-level radioactive waste to be disposed of at a facility, including, but not limited to, the amount of low-level radioactive waste and the class of low-level radioactive waste generated by each generator.

"(3) Develop and enforce procedures requiring generators within its borders to minimize the volume of low-level radioactive waste requiring disposal. Nothing in this compact shall prohibit the storage, treatment, or management of waste by a generator.

"(4) Provide the commission with any data and information necessary for the implementation of the commission's responsibilities, including taking those actions necessary to obtain this data or information.

"(5) Pay for community assistance projects designated by the host county in an amount for each non-host party state equal to 10 percent of the payment provided for in Article V for each such state. One-half of the payment shall be due and payable to the host county on the first day of the month following ratification of this compact agreement by Congress and one-half of the payment shall be due and payable on the first day of the month following the approval of a facility operating license by the host state's regulatory body.

"(6) Provide financial support for the commission's activities prior to the date of facility operation and subsequent to the date of congressional ratification of this compact under Section 7.07 of Article VII. Each party state will be responsible for annual payments equalling its pro-rata share of the commission's expenses, incurred for administrative, legal, and other purposes of the commission.

"(7) If agreed by all parties to a dispute, submit the dispute to arbitration or other alternate dispute resolution process. If arbitration is agreed upon, the governor of each party state shall appoint an arbitrator. If the number of party states is an even number, the arbitrators so chosen shall appoint an additional arbitrator. The determination of a majority of the arbitrators shall be binding on the party states. Arbitration proceedings shall be conducted in accordance with the provisions of 9 U.S.C. Sections 1 to 16. If all parties to a dispute do not agree to arbitration or alternate dispute resolution process, the United States District Court in the district where the commission maintains its office shall have original jurisdiction over any action between or among parties to this compact.

"(8) Provide on a regular basis to the commission and host state:

"(A) an accounting of waste shipped and proposed to be shipped to the compact facility, by volume and curies;

"(B) proposed transportation methods and routes; and

"(C) proposed shipment schedules.

"(9) Seek to join in any legal action by or against the host state to prevent nonparty states or generators from disposing of low-level radioactive waste at the facility.

"SEC. 4.06. Each party state shall act in good faith and may rely on the good faith performance of the other party states regarding requirements of this compact.

"ARTICLE V. PARTY STATE CONTRIBUTIONS

"SEC. 5.01. Each party state, except the host state, shall contribute a total of $25 million to the host state. Payments shall be deposited in the host state treasury to the credit of the low-level waste fund in the following manner except as otherwise provided. Not later than the 60th day after the date of congressional ratification of this compact, each non-host party state shall pay to the host state $12.5 million. Not later than the 60th day after the date of the opening of the compact facility, each non-host party state shall pay to the host state an additional $12.5 million.

"SEC. 5.02. As an alternative, the host state and the non-host states may provide for payments in the same total amount as stated above to be made to meet the principal and interest expense associated with the bond indebtedness or other form of indebtedness issued by the appropriate agency of the host state for purposes associated with the development, operation, and post-closure monitoring of the compact facility. In the event the member states proceed in this manner, the payment schedule shall be determined in accordance with the schedule of debt repayment. This schedule shall replace the payment schedule described in Section 5.01 of this article.

"ARTICLE VI. PROHIBITED ACTS AND PENALTIES

"SEC. 6.01. No person shall dispose of low-level radioactive waste generated within the party states unless the disposal is at the compact facility, except as otherwise provided in Section 3.05(7) of Article III.

"SEC. 6.02. No person shall manage or dispose of any low-level radioactive waste within the party states unless the low-level radioactive waste was generated within the party states, except as provided in Section 3.05(6) of Article III. Nothing herein shall be construed to prohibit the storage or management of low-level radioactive waste by a generator, nor its disposal pursuant to 10 C.F.R. Part 20.302.

"SEC. 6.03. Violations of this article may result in prohibiting the violator from disposing of low-level radioactive waste in the compact facility, or in the imposition of penalty surcharges on shipments to the facility, as determined by the commission.

"ARTICLE VII. ELIGIBILITY, ENTRY INTO EFFECT; CONGRESSIONAL CONSENT; WITHDRAWAL; EXCLUSION

"SEC. 7.01. The states of Texas, Maine, and Vermont are party states to this compact. Any other state may be made eligible for party status by a majority vote of the commission and ratification by the legislature of the host state, subject to fulfillment of the rights of the initial non-host party states under Section 3.04(11) of Article III and Section 4.01 of Article IV, and upon compliance with those terms and conditions for eligibility that the host state may establish. The host state may establish all terms and conditions for the entry of any state, other than the states named in this section, as a member of this compact; provided, however, the specific provisions of this compact, except for those pertaining to the composition of the commission and those pertaining to Section 7.09 of this article, may not be changed except upon ratification by the legislatures of the party states.

"SEC. 7.02. Upon compliance with the other provisions of this compact, a State made eligible under Section 7.01 of this article may become a party State by legislative enactment of this compact or by executive order of the governor of the State adopting this compact. A State becoming a party State by executive order shall cease to be a party State upon adjournment of the first general session of its legislature convened after the executive order is issued, unless before the adjournment, the legislature enacts this compact.

"SEC. 7.03. Any party State may withdraw from this compact by repealing enactment of this compact subject to the provisions herein. In the event the host State allows an additional State or additional States to join the compact, the host State's legislature, without the consent of the non-host party States, shall have the right to modify the composition of the commission so that the host State shall have a voting majority on the commission, provided, however, that any modification maintains the right of each initial party State to retain one voting member on the commission.

"SEC. 7.04. If the host State withdraws from the compact, the withdrawal shall not become effective until five years after enactment of the repealing legislation and the non-host party States may continue to use the facility during that time. The financial obligation of the non-host party States under Article V shall cease immediately upon enactment of the repealing legislation. If the host State withdraws from the compact or abandons plans to operate a facility prior to the date of any non-host party State payment under Sections 4.05(5) and (6) of Article IV or Article V, the non-host party States are relieved of any obligations to make the contributions. This section sets out the exclusive remedies for the non-host party States if the host State withdraws from the compact or is unable to develop and operate a compact facility.

"SEC. 7.05. A party State, other than the host State, may withdraw from the compact by repealing the enactment of this compact, but this withdrawal shall not become effective until two years after the effective date of the repealing legislation. During this two-year period the party State will continue to have access to the facility. The withdrawing party shall remain liable for any payments under Sections 4.05(5) and (6) of Article IV that were due during the two-year period, and shall not be entitled to any refund of payments previously made.

"SEC. 7.06. Any party State that substantially fails to comply with the terms of the compact or to fulfill its obligations hereunder may have its membership in the compact revoked by a seven-eighths vote of the commission following notice that a hearing will be scheduled not less than six months from the date of the notice. In all other respects, revocation proceedings undertaken by the commission will be subject to the Administrative Procedure and Texas Register Act (Article 6252–13a, Vernon's Texas Civil Statutes), except that a party State may appeal the commission's revocation decision to the United States District Court in accordance with Section 3.06 of Article III. Revocation shall take effect one year from the date such party State receives written notice from the commission of a final action. Written notice of revocation shall be transmitted immediately following the vote of the commission, by the chair, to the governor of the affected party State, all other governors of party States, and to the United States Congress.

"SEC. 7.07. This compact shall take effect following its enactment under the laws of the host State and any other party State and

thereafter upon the consent of the United States Congress and shall remain in effect until otherwise provided by federal law. If Texas and either Maine or Vermont ratify this compact, the compact shall be in full force and effect as to Texas and the other ratifying State, and this compact shall be interpreted as follows:

"(1) Texas and the other ratifying State are the initial party States.

"(2) The commission shall consist of two voting members from the other ratifying State and six from Texas.

"(3) Each party State is responsible for its pro-rata share of the commission's expenses.

"SEC. 7.08. This compact is subject to review by the United States Congress and the withdrawal of the consent of Congress every five years after its effective date, pursuant to federal law.

"SEC. 7.09. The host State legislature, with the approval of the governor, shall have the right and authority, without the consent of the non-host party States, to modify the provisions contained in Section 3.04(11) of Article III to comply with Section 402.219(c)(1), Texas Health & Safety Code, as long as the modification does not impair the rights of the initial non-host party States.

"ARTICLE VIII. CONSTRUCTION AND SEVERABILITY

"SEC. 8.01. The provisions of this compact shall be broadly construed to carry out the purposes of the compact, but the sovereign powers of a party shall not be infringed upon unnecessarily.

"SEC. 8.02. This compact does not affect any judicial proceeding pending on the effective date of this compact.

"SEC. 8.03. No party State acquires any liability, by joining this compact, resulting from the siting, operation, maintenance, long-term care or any other activity relating to the compact facility. No non-host party State shall be liable for any harm or damage from the siting, operation, maintenance, or long-term care relating to the compact facility. Except as otherwise expressly provided in this compact, nothing in this compact shall be construed to alter the incidence of liability of any kind for any act or failure to act. Generators, transporters, owners and operators of facility shall be liable for their acts, omissions, conduct or relationships in accordance with applicable law. By entering into this compact and securing the ratification by Congress of its terms, no party State acquires a potential liability under section 5(d)(2)(C) of the Act (42 U.S.C. Sec. 2021e(d)(2)(C)) that did not exist prior to entering into this compact.

"SEC. 8.04. If a party State withdraws from the compact pursuant to Section 7.03 of Article VII or has its membership in this compact revoked pursuant to section 7.06 of Article VII, the withdrawal or revocation shall not affect any liability already incurred by or chargeable to the affected state under section 8.03 of this article.

"SEC. 8.05. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared by a court of competent jurisdiction to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstances is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby to the extent the remainder can in all fairness be given effect. If any provision of this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

"SEC. 8.06. Nothing in this compact diminishes or otherwise impairs the jurisdiction, authority, or discretion of either of the following:

"(1) the United States Nuclear Regulatory Commission pursuant to the Atomic Energy Act of 1954, as amended (42 U.S.C. Sec. 2011 et seq.); or

"(2) an agreement state under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. Sec. 2021).

"SEC. 8.07. Nothing in this compact confers any new authority on the states or commission to do any of the following:

"(1) Regulate the packaging or transportation of low-level radioactive waste in a manner inconsistent with the regulations of the United States Nuclear Regulatory Commission or the United States Department of Transportation.

"(2) Regulate health, safety, or environmental hazards from source, by-product, or special nuclear material.

"(3) Inspect the activities of licensees of the agreement states or of the United States Nuclear Regulatory Commission.".

Mr. LEAHY. Mr. President, I rise in support of S. 2222, the Texas Low-Level Radioactive Waste Disposal Compact, which establishes a formal waste agreement between the States of Vermont, Maine, and Texas.

While I would prefer to be supporting a measure that represents a perfect solution for our Nation's low-level waste problem—something that gets rid of low-level waste permanently without affecting a single American—this alternative does not exist. Therefore, I rise to support the best solution available.

This issue is not an easy one, and I am still looking for improvements to the established system. I have joined several of my colleagues in support of a Presidential blueribbon commission to look critically at the generation, classification, storage, and disposal of radioactive waste in this country. I hope that this effort will provide some improvements to the current way that we deal with this issue.

However, given the current authority established by Congress in the Low-Level Radioactive Waste Policy Amendments Act of 1985, the Texas-Vermont-Maine compact is a remarkably good one. The bill we are introducing today represents the 10th low-level waste trade compact to be considered by Congress. With the ratification of this compact, 45 States will be members of multistate low-level waste storage agreements which nearly completes the process that Congress established in 1985.

This bill also assures that Vermont's waste will be stored in one of the safest sites available. The planned storage facility is in a geologically stable area that receives less than 12 inches of rainfall per year and has an evapotranspiration rate of 70 inches a year. Less than one inch of water runs off the land annually, and groundwater is more than 700 feet below the surface.

The compact minimizes the impact of waste disposal on the American people. The planned site is on marginal range that supports about one head of cattle per 100 acres and has a population of less than 1 person per 1,000 acres. The State of Texas has ensured that the facility will comply with the strict terms of the President's Executive order on environmental equity. The facility will be built to the highest standard using the best technology available.

In addition, the bill solves several financial, legal, and environmental problems for the State of Vermont. In ratifying this compact we protect Vermont from hostile influxes of waste that would be possible if Vermont built its own facility independently and we meet the intent of Federal law. The State of Vermont has avoided large capital costs by participating actively in this planning process. It is my understanding that another State, by comparison, offered Texas $100,000,000 to join the compact and was turned away. States that do not have a compact at this point find themselves on a difficult situation. Some of these States have passed up opportunities that may compromise their ability to deal safely with low-level radioactive waste.

Finally, the compact represents the clear political will of all three States. Engineers, planners, community activists, geologists, State officials and many others have participated in a democratic process. These and other stakeholders will continue to be involved as the project progresses. The Vermont State Legislature passed this compact on April 20, 1994, and the Governor signed the bill the following day. The bill honors the hard work, commitment, and support that our States have demonstrated toward this compact.

I want to thank the majority leader for introducing this legislation and I am willing to lend my support to this bill. I also want to thank the Senators from Texas for supporting their State in Congress on this issue. I hope the Judiciary Committee can review the bill expeditiously and return it to the floor for final passage in the 103d Congress.

By Mr. KOHL (for himself and Mr. FEINGOLD):

S. 2223. A bill to amend title 10, United States Code, to authorize the Secretary of Defense to provide assistance to promote public participation in defense environmental restoration activities; to the Committee on Armed Services.

DEFENSE ENVIRONMENTAL CLEAN-UP TECHNICAL ASSISTANCE ACT

Mr. KOHL. Mr. President, Defense toxic waste sites are a lingering legacy threatening local communities across the country and in my State of Wisconsin. As the Defense Department

downsizes or closes bases, there is a growing fear among citizens that environmental cleanup of toxic waste sites will be rushed and that, faced with tight budgets, the Defense Department may make decisions about the clean-up of these sites which are detrimental to the health and well-being of citizens living nearby. This fear has become even more acute with the realization that the cost of cleaning up the 15,000 plus Defense toxic waste sites across the country could cost as must as $25 billion.

The legislation I am introducing today, along with Senator FEINGOLD, attempts to protect the interests of local communities in the cleanup process and give them the means to participate in the difficult decisions about environmental cleanup which lie ahead.

Two years ago, all the parties involved in the cleanup of Federal environmental contamination came together under the auspices of the Keystone Foundation. For the first time, Federal, State, local, and Indian tribal officials, and community, environmental, and labor organizations, came up with a series of recommendations acceptable to everyone to improve public participation in the cleanup of these hazardous sites. These recommendations can be found in the Interim Report of The Federal Facilities Environmental Restoration Dialogue Committee.

The Defense Department endorsed the Keystone recommendations and has been working to implement them.

The cornerstone of this effort is the creation of restoration advisory boards at each installation. These boards are made up of community members selected to give local input on cleanup issues to the Federal agency having jurisdiction over the site. In a pilot program the Defense Department has directed each of the services to assist communities in setting up restoration advisory boards at five installations with environmental contamination.

In an effort to make these boards more independent and give them credibility in their communities, the Keystone participants recommended that the Federal agencies provide technical assistance grants to the boards, much like EPA does at Superfund sites, so the boards can hire experts to help them understand complex environmental impact statements and technical and engineering information provided to them by the Federal Government.

Although the Defense Department has been committed to the Keystone process, it has refused to provide technical assistance grants. I believe this is a serious mistake which could undermine the independence and the credibility of these boards in their own communities.

This legislation puts into statute the establishment of restoration advisory boards by the Defense Department and lays out criteria for the makeup of these boards. Most important, however, it requires that the Defense Department provide small grants to the restoration advisory boards of $100,000 or one-tenth of 1 percent of the total cost of cleaning up the facility, whichever works out to be less, to allow them to obtain technical assistance.

By limiting the amount which would go to each community and setting a cap on overall spending for technical assistance grants, the bill does not direct significant funds away from cleanup itself.

This bill will not delay cleanup of bases, rather it will facilitate environmental cleanup. By ensuring that the views of local citizens can be heard, we can prevent strained relations between civilians and the military and the delays that often arise because of these tensions.

This bill is not designed to fund more studies. I think we all agree that there have been plenty of studies.

Finally, this bill would not require new spending. Instead, it designates one-quarter of 1 percent from the Defense Environmental Restoration Account and the 1990 Base Realignment and Closure Account or $7.5 million, whichever works out to be less, for this purpose.

Mr. President, this is a small price to pay for peace of mind. And, in the long run, investing the local community in the cleanup process will save millions of dollars that might have been spent in litigation down the road.

This bill could have tremendous impact across the country. In my own State, there are 278 contaminated sites at 47 bases and formerly used Defense sites.

Badger Army Ammunition Plant which is located in Baraboo, WI, is one of five installations designated by the Army to participate in the pilot program to implement the Keystone recommendations. Subsequent to its selection, a restoration advisory board made up of a cross-section of citizens who have been affected or could be affected by the environmental contamination at Badger was created to provide policy and technical advice on key cleanup decisions.

The board at Badger has been frustrated by its inability to receive a technical assistance grant from the Department of Defense to hire independent technical advisors. Instead, the Army has encouraged the board to use the technical advisors employed by the Army. Yet, the environmental contractors working for the Army are not permitted to speak directly to members of the board when they have questions. All questions have to go through the Army.

Although I have no doubt that the Army is operating in good faith, preventing the restoration advisory board from receiving independent guidance on technical matters violates the spirit of the Keystone process and puts the entire credibility of the board at stake. Our legislation would correct this problem.

Similar legislation has been introduced in the House by Representative Underwood from Guam and I want to commend him for his work on this issue. He was successful in having a similar provision adopted in the House version of the Defense authorization bill.

This bill is about empowering citizens who have taken on the difficult task of working side-by-side with the military to make sure that clean really means clean. Above all, this bill is about building trust between the Federal Government and our local communities.

Mr. President, I want to alert my colleagues to my intention to offer this bill as an amendment to the Defense authorization bill. I urge my colleagues to support this effort so we can get on with the business of cleaning up our bases and making our communities, the water, the soil, and the air, safe for our children.

Mr. FEINGOLD. Mr. President, I am very pleased to join with my friend and colleague Senator KOHL in introducing legislation to authorize the Secretary of Defense to provide assistance to promote public participation in defense environmental restoration activities.

Mr. President, I believe legislation such as this will provide a greater opportunity for local community members to play an active and informed role in environmental restoration activities at nearby Defense installations.

Currently, while the Department of Defense is participating in the Keystone Federal Facilities Environmental Restoration Committee which has been instrumental in opening the doors to greater local community involvement in restoration activities through the use of restoration advisory boards, one important piece is missing.

Mr. President, I would like to use as an example a recent request to the Department of Defense made by members of the Site Specific Advisory Board at the Badger Army Ammunition Plant in Baraboo, WI.

This board which has input into ongoing restoration activities at the plant is exclusively made up of community members. Given the technical nature of environmental remediation, monitoring, and planning, the board requested funds to employ an independent technical adviser to assist them in providing and explaining technical information. This request was denied.

I wrote to the Department of Defense on the board's behalf asking that the Department reconsider this position. The Department again responded in the negative.

Mr. President, given the technical nature of both on-site environmental restoration and of regulatory process, the Keystone report recommended that technical assistance funding be provided to nongovernmental advisory board members to help ensure more effective and meaningful participation, especially as it relates to SSAB [site specific advisory board] review and comment on technical reports and documents being developed by the Federal facility managers and their contractors.

The EPA has authority to provide technical assistance grants to communities near national priorities list [NPL] sites under the Comprehensive Environmental Response, Compensation and Liability Act. I believe this possibility of technical assistance funding is essential in assuring fully informed community involvement, and that advisory boards which are located near non-NPL Defense sites should have the same access to such funds through the Department of Defense.

Mr. President, individuals should have a voice in cleanup activities which are taking place in their backyards. They are the most invested in seeing that remediation takes place in a responsible and efficient matter, because it is their health and the health of their children at stake if it is not. These individuals should not only have a voice, but the tools needed for an informed collective voice. I believe the legislation offered by Senator KOHL and myself today will help to make that more possible.

By Mr. MOYNIHAN (for himself, Mr. MITCHELL, Mr. BREAUX, Mr. DASCHLE, Mr. DODD, Mr. KENNEDY, and Mr. ROCKEFELLER) (by request):

S. 2224. A bill to amend the Social Security Act, the Food Stamp Act of 1977, and other relevant statutes to redesign the program of aid to families with dependent children to establish a program that provides time-limited, transitional assistance, prepares individuals for and requires employment, prevents dependency, and overhauls the child support enforcement mechanism at both the Federal and State levels, and for other purposes; to the Committee on Finance.

WORK AND RESPONSIBILITY ACT OF 1994

Mr. MOYNIHAN. Mr. President, along with the Majority Leader MITCHELL and Senators BREAUX, DASCHLE, DODD, and KENNEDY, I am today introducing the Work and Responsibility Act of 1994 at the request of President Clinton.

The President's proposal builds on the Family Support Act which this body passed 5 years ago. Governor Clinton, as head of the National Governors' Association, was a key supporter of that legislation. The early returns from States like California and Florida suggest that the program is working exactly as intended—earnings are up and welfare costs are down. The major disappointment is that the States have had trouble coming up with the funds to draw down all of the available Federal dollars. The new proposal increases Federal funding, and reduces the required State match, so that a much larger portion of the caseload should be able to enter school, or job training, or otherwise start down the road to self-sufficiency.

The new plan emphasizes employment. "Work is the best social program this country ever devised," President Clinton said last Thursday at the Commerce Bank in Kansas City in announcing his plan to submit this legislation. This Congress has already increased work incentives for welfare recipients with last year's expansion of the earned income tax credit, and the incentives will be even stronger when we pass universal health coverage. Under the President's welfare plan, most recipients will have to go to work after they have been on the rolls for 2 years. For job-ready individuals, job search will become the first priority. And states will be allowed to increase work incentives in their welfare programs.

The President directly addresses the problem of out-of-wedlock births. In Kansas City last Thursday, he predicted that within 10 years, unless current trends are reversed, "more than half of our children will be born in homes where there has never been a marriage." Reversing these trends won't be easy, but nothing is as important. "No nation" said the President "has ever found a substitute for the family." For a young woman who is thinking of having a baby and going on welfare, the new plan contains a simple message: you will have to live at home and stay in school, and after you graduate, you will have to go to work.

There are also some bold changes to increase child support payments—"the toughest child support enforcement measures in the history of this country," according to the President. The plan sets up a new system of paternity establishment to enforce the responsibility of both parents from the moment the child is born. It involves the IRS in tracking delinquent parents from the moment they start a new job. And it includes new provisions to ensure that parents don't avoid their responsibility by crossing State lines.

No doubt there will be criticisms of the President's bill; complaints that he went too far, or that he did not go far enough. What matters is that, as in 1988, a broad consensus has developed around a few basic points—that all recipients should have access to the education and training they need, that after that they should go to work, preferably in the private sector but in a public job if necessary, and that we must redouble our efforts to stop the rise in teenage pregnancy which has done so much to increase welfare caseloads. If you look at the major bills that have been introduced in the House and the Senate, what stands out are the similarities, not the differences. If we can focus on the areas of agreement, I believe we can put together a bipartisan coalition in favor of the kind of work-oriented system that the great majority of Americans support.

Mr. MITCHELL. Mr. President, last week President Clinton announced a sweeping welfare reform plan that will make welfare receipt temporary. Ending the cycle of dependency will end welfare as we know it.

Under the President's plan, from day one, welfare parents will be required to develop an employability plan. That plan will serve as a blueprint for self-sufficiency.

Those parents who are job-ready will join a job search program. Anyone offered a job, will be required to take it. For those welfare parents not job-ready, they will be required to participate in the Job Opportunities and Basic Skills Program, known as JOBS, where they will receive the education and skill training necessary to become employable.

Under current law, few AFDC parents of young children participate in the JOBS Program. Under the Clinton plan, AFDC parents of children age one or older will be required to participate in JOBS. For mothers who have additional children while receiving AFDC, they will be required to participate in JOBS once their new baby is 3 months of age.

For AFDC parents who have not found employment within 2 years, they will be required to work for their benefits in a newly created WORK Program. While States will have flexibility in designing WORK Programs, the basic concept is that the WORK Program will be a work-for-wages plan, so that AFDC parents receive money only for hours actually worked.

To ensure that parents can participate in the JOBS and WORK Programs, child care assistance will be provided.

The Clinton plan focuses on young unwed mothers. Studies have long shown that young women who become mothers as teenagers are likely to remain on welfare for the longest period of time. They are more likely to drop out of high school, have no work training or job skills, and over their lifetime represent the bulk of the cost to the welfare system.

Under the Clinton plan, AFDC parents under 20 years of age who do not have a high school degree will be required to participate in the JOBS Program once their baby is 3 months of age.

States will have the flexibility to adopt sanctions or incentives to boost teen school attendance. For teen parents who attend high school regularly,

States could provide a bonus payment. For teen parents who drop out of high school or who miss more than a few days, their AFDC benefit could be reduced.

In addition, teen parents will be required to live at home or in a supervised group setting.

The Clinton plan is tough on deadbeat parents. I think we all agree that raising a child is a financial responsibility for both the mother and the father. For too long, too many noncustodial parents have walked away from their financial responsibility.

Under the Clinton plan, the child support enforcement system will be simplified and streamlined. For mothers applying for AFDC, they will be required to provide paternity information to the State in order to qualify for benefits.

Those parents owing child support who don't make their payments will be subject to tough sanctions. States will be allowed to suspend occupational and professional licenses as well as drivers' licenses of deadbeat parents. Since this law was enacted in Maine last year, about 8,700 delinquent parents have paid over $10 million in past-due support.

Interstate child support enforcement is nearly impossible today. Under the Clinton plan, States will be required to adopt uniform rules to ensure that child support is paid regardless of the State in which parents decide to live.

There has been criticism of the Clinton plan in the papers recently because the President has chosen to target initial resources in his bill to mothers born after 1971. This criticism is unfounded.

Welfare reform is not a new objective. Every President since Dwight Eisenhower has made welfare reform a priority. But eliminating poverty in the United States has proven an elusive goal and welfare caseloads and costs have risen steadily.

The Aid to Dependent Children Program that President Roosevelt created was designed primarily for widows with young children. Today, very few of these households are now headed by widows. Most are unmarried mothers or divorced or separated mothers.

Women who gave birth as teenagers make up nearly half of the AFDC caseload. Because they lack education and job skills, they represent the long-term costs of the AFDC Program and they are the mothers who make welfare a way of life. By targeting mothers under 25, the Clinton plan seeks to end the cycle of dependency that young mothers create.

At State option, a larger segment of the welfare population, in fact, all applicants, can be required to participate in the WORK Program and work for their benefits. I believe that this is fair. The Clinton plan targets the population most likely to represent the long-term cost of the welfare system. States are given the flexibility to enlarge the population affected by the new rules.

With all the criticism from Governors about Congress enacting large unfunded mandates, I believe that the Clinton plan offers a realistic strategy. Requiring participation in the JOBS Program or the WORK Program, for those who haven't found employment, is not free. It will cost the Federal and State governments some money to provide child care to ensure that welfare parents can participate in these programs.

It will cost the Federal and State governments some money to fund education or job training programs and ultimately the WORK Program to ensure that AFDC parents are either getting the skills that they need to become employable or are in a workfare type program. To ensure that Congress is not passing on a large unfunded mandate to the States, I believe that the Clinton bill is a sound plan.

Welfare receipt ought to be temporary, given during times of financial crisis for a family, not a way of life as it has become for too many families. For those who can work, they ought to be required to work.

But, one of the largest barriers that many women with children face as they seek to leave the welfare rolls is the absence of health care. A family on AFDC automatically qualifies for Medicaid, the health insurance program for the poor. But, many low paying jobs, the jobs that most welfare recipients may qualify for, don't carry health insurance.

This means that the first time this family has a health problem, the likelihood that the family returns to the welfare rolls is quite good.

Universal health care coverage is part of the President's health care plan. While there might be many changes in the President's health care plan before it's enacted, universal coverage is critical to making work pay and helping families become and stay self-sufficient.

Health care coverage is a critical part of welfare reform. Poor women and children currently on welfare have little chance to make it on their own off welfare if they don't have health care coverage.

During the next several months, there will be much debate about welfare reform in the Congress and in the States. There is no magic wand to turn welfare recipients into wage earning recipients. There is no panacea to fixing our Nation's welfare system.

If we provide health insurance to all Americans, if we improve the child support system, and if we work to promote more personal responsibility among our Nation's youth, we can truly reform our Nation's welfare system. We can "end welfare as we know it".

Mr. BREAUX. Mr. President, the welfare system in this country is failing all of us. It is failing the working people whose tax dollars pay for it and it is failing the poor, who it was intended to help.

Even worse, it has corrosive effects on individual self-sufficiency and family structure and traps them into an endless cycle. Too often welfare condemns families to a repeating cycle of poverty and hopelessness that is passed from one generation to the next.

Poverty and long-term dependence on welfare are critical issues in this country. In 1992, the number of people living in poverty reached 37 million Americans—it grew by 5.4 million people over just 3 years. At the same time, the number of out-of-wedlock births has increased to epidemic proportions.

In my State of Louisiana, almost one-third of all children live in poverty. In Orleans Parish alone, nearly half of all children alive today—46 percent live in poverty. It's not hard to see that welfare reform is a pressing issue in Louisiana because the lives of so many Louisiana citizens are shaped by the broken welfare system and the poisonous culture that it creates.

That is why I am an original cosponsor of the bill being introduced today. I am especially pleased to join with the chairman of the Senate Finance Committee, Senator MOYNIHAN, who has long been a leader on this issue, and with Senate Majority Leader MITCHELL.

President Clinton promised to "end welfare as we know it" and this bill demonstrates that he is honoring that commitment. He has done something that is extremely difficult to do. He has sent us a plan that is truly dramatic in its reach—from the very beginning welfare will become a transitional system leading to work. At the same time, he has structured the reforms in a way that is practical and workable.

To me "ending welfare as we know it" does not mean mindlessly slashing welfare programs to save tax dollars. It means alleviating poverty and welfare dependency, not just for welfare recipients, but for the "working poor." And most importantly, it means a long-term commitment to putting poor Americans to work and helping them resolve the circumstances that made them poor in the first place.

We must help the growing numbers of welfare dependent individuals. They must be given a chance, and strongly helped and encouraged to enter the economic mainstream of this country. Work and responsibility must be rewarded in the welfare system and a refusal to live by the rules that working people live by ought not to be rewarded.

President Clinton's plan says that after a period of 2 years AFDC recipients should no longer be eligible for

welfare payments. Instead they should be placed in jobs in the private sector or, where necessary, into community service jobs. Welfare would be transformed into a temporary program for individuals who will soon be returning to the work force. Those who aren't willing to work or go through job training could no longer receive benefits forever.

The proposal will also reinforce the concept of parental responsibility by toughening the enforcement of child-support obligations and holding absent fathers responsible for their fair share of supporting the children that they bring into the world.

Last year we started the process of reforming welfare by expanding and simplifying the Earned Income Tax Credit. This will help working families stay out of poverty and, as the President has promised to do, make work pay. Health care reform is also a critical piece of comprehensive welfare reform. Right now, too many poor Americans are faced with the loss of health insurance should they choose to take a job and get off of welfare. This penalty for working needs to be eliminated and we are well on the road to making the needed changes.

Welfare reform legislation should be looked at as one of the critical pieces of an overall domestic agenda that will help all working families, all of those too often forgotten Americans who work hard and play by the rules. Other major pieces of this agenda include the crime bill, which is now in conference, and the 500 billion dollar deficit reduction bill we passed last year, which has succeeded in keeping interest rates down so that millions of Americans have been able to refinance their mortgages and keep a little bit more of their own hard-earned money. Inflation is also down and job creation is on the rise.

Reaching a consensus on how to solve this problem won't be easy. In past welfare reform efforts, conservatives have argued for less spending on welfare without making fundamental changes in how welfare works. Liberals have, too often, simply argued for more resources without making fundamental changes either.

The arguments have mostly been over less of the same or more of the same. This is too simple—the existing welfare system needs to be replaced with a work-based social policy that reinforces mainstream values by rewarding individual initiative, expanding opportunities for self-sufficiency and, in return, demanding responsible behavior on the part of recipients.

The proposal that President Clinton has sent us would achieve these goals and he is to be commended for his commitment to this vital issue. He has sent us a bill that contains the vital elements of real reform and I, for one, am eager to get started on it.

• Mr. DODD. Mr. President, I rise today as a proud cosponsor of President Clinton's welfare reform bill. I see it as an excellent starting point to what I hope will prove to be a constructive debate. I wanted to take this opportunity to share with my colleagues a statement I delivered when the President unveiled his proposal last week:

For me, the entire debate over welfare reform orbits this one word, responsibility: Our responsibility as teenagers not to bring kids into the world if we can't care for them; our responsibility as fathers not to walk away from the kids we do create; our responsibility as adults to work and earn a paycheck; our responsibility as a private sector to create jobs; and our responsibility as a government to help people on welfare find their way to those jobs.

It is time for all of us to meet these responsibilities. It is time for all of us to save the children who are suffering today because we haven't.

PERSONAL RESPONSIBILITY

When I think about the importance of responsibility, I think of a young woman I met in Bridgeport, CT, when I was touring the Private Industry Council job training program there. I spoke with a welfare mother sitting behind a computer terminal, trying to learn a trade. I asked her why she was there, why she was working so hard to find a job rather than simply staying on welfare.

She paused for a while after I asked the question and then looked me straight in the eye: "Mr. politician," she said, "I've got a 4- and a 5-year-old at home, and I want them to see a parent going to work in the morning. That's something I never saw growing up."

This woman understood responsibility. She was taking responsibility for her life, and she was taking responsibility for her children's lives.

As we embark on this process, I hope we will remember that welfare reform shouldn't just be a campaign slogan or the title of an issue brief. Welfare reform should be about people, and in the case of aid to families with dependent children [AFDC] most of those people are children. In fact, AFDC was created almost 60 years ago for the principal purpose of assisting needy children without fathers.

While our society has changed dramatically since that time, the purpose of the program has not. Two-thirds of welfare recipients today are children. If the system fails, it fails their parents—but more than anything else, it fails their kids.

FAILING OUR CHILDREN

That is what's happening today. We—all of us—are failing our children. This point has been driven home in recent months with the release of a couple of studies that painted a devastating portrait of young America:

A report I requested from the General Accounting Office showed that the number of poor children under the age of 6 in America increased by more than 25 percent during the 1980's.

These numbers are worse in urban areas: Forty-seven percent of young children living in the capital of my own State of Connecticut are poor, making Hartford the American city with the second-highest child poverty rate.

Another study by the Carnegie Foundation found that one in four young children is poor.

I don't know of anyone who could look at statistics like these and not recognize that something is seriously wrong in America—and that our children are being punished for it.

STOP POINTING FINGERS

It is time for everyone to stop pointing the finger of blame at someone else for this state of affairs.

Liberals must stop blaming something amorphous they call society. Conservatives must stop blaming mythical individuals called welfare queens. And people on welfare must stop blaming others for circumstances they can personally take the initiative to change.

I want to emphasize that the President's announcement today does not represent the end of a process, but only a beginning. This is a highly complex issue, and we don't want to leap before we look.

With that caveat in mind, I think the President's plan includes a number of valuable provisions. Work requirements, time limits and better linkages to job training programs are all ideas worthy of serious and careful consideration.

STRONG CHILD SUPPORT PROVISION

I am especially pleased about the strong child support enforcement component of the President's plan. The poverty rate for single-parent families headed by women is nearly 33 percent. This compares to a poverty rate of under 8 percent for two-parent families.

The lack of child support is a major cause of poverty among single-parent families in this country, and too often those families going without support end up on welfare. The link between lack of child support and poverty is clear, as the Census Bureau illustrated when it estimated that between 1984 and 1986 approximately half a million children fell into poverty after their fathers left home.

The President's proposal contains some valuable tools to change this situation and demand that absent fathers step up to the plate and take responsibility for their children. I was pleased that the President incorporated a number of provisions from child support legislation I introduced earlier this year.

TEEN PREGNANCY

The President's initiative also recognizes that reducing teen pregnancy is integral to cutting into welfare dependency. Between 1960 and 1988, the percentage of births in America to unmarried mothers rose from 5 percent to 26 percent, and the poverty rate for children raised in such settings is terrible—for children of single Hispanic mothers the rate approaches 75 percent.

We must state in clear, unmistakable terms to teenage boys and girls that they best not create a life unless they are willing to take responsibility for that life. The President envisions a concerted, national campaign to achieve that end.

CHILD CARE

Finally, the President's plan contains a modest child care component. The lack of quality, affordable child care is often the most serious obstacle to young women's efforts to enter the work force—and to stay in the work force once they get there.

I am pleased that the administration recognized this fact by including child care in its proposal and by making provisions of the child care and development block grant that I authored in 1990 the standard for Federal child care. But I am concerned about the modest scope of this provision. By including only a very limited expansion of child care for the working poor, the President's plan may very well be penny wise but pound foolish when it comes to child care.

We may save money in the short run by not providing more generous child care benefits, but lose money down the road if women who have successfully made the transition from welfare to work go back to welfare after a year due to a lack of affordable, quality child care.

I do understand the daunting fiscal pressures the administration faced in drafting this plan, and I want to reiterate that, taken as a whole, it is a creative and constructive proposal. In the months ahead, we will be carefully examining each part of the proposal, and I look forward to working with my colleagues on this exciting endeavor.

CONCLUSION

This country, so great and strong, the most productive economic power in the world, surely has the will and the know how to end welfare dependency. When we are finished with this process, I hope we will demand more of everyone in this country. I hope we will demand that each and every American accept responsibility for his or her actions. I hope we will demand that our children not be raised in intolerable conditions.

I know one thing: That the American people are demanding that we reform welfare and that we do it right. We have a responsibility as elected representatives to respond to that demand, and I am eager to roll up my sleeves and get started.●

Mr. KENNEDY. Mr. President, I support President Clinton's efforts to reform the welfare system and make it a program that encourages productive work instead of habitual welfare dependency.

Genuine welfare reform means job training and education that provide mothers on welfare with the opportunity to enter the workplace and earn a living wage. Genuine welfare reform means providing adequate child care, so that mothers can leave home for work and know that their children will be safe. It means passing health reform, so that no mother feels the need to stay on welfare in order to get health care for her children.

President Clinton's plan for reforming the welfare system includes all of these essential components. It is a genuine effort to improve this troubled program, and I am proud to cosponsor it.

The 2-year time limit on welfare benefits and the work requirements are important features of this plan. The real problem with the work requirements is likely to be making enough jobs available. Welfare reform won't work if there is no job at the end of reform.

The 2-year time limit provides adequate time to make job training and other assistance available, while also ensuring that welfare does not become a way of life. The decision to apply the limit at the outset only to welfare recipients 25 years old or younger is sensible. Federal, State, and local governments will be overwhelmed if they have to provide job training, child care, and job opportunities for everyone on welfare. The first priority is to help young mothers avoid welfare dependency.

In general, I also support the sanctions and disincentives in the President's plan. Sanctions are appropriate for those who do not fulfill their obligation to attend job training sessions, seek work, or meet the other work requirements. However, I oppose the family cap—measures that aim at the mother but hit the child are not the answer to welfare dependency.

I look forward to effective action by Congress to achieve these reforms. Our goal is to turn the welfare system into a helping hand, and end the handout it was become for far too many.

Mr. President, I ask unanimous consent that a fact sheet, legislative specifications, and a copy of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD.

S. 2224

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Work and Responsibility Act of 1994".

SEC. 2. TABLE OF CONTENTS; REFERENCES.

(a) TABLE OF CONTENTS.—This Act contains the following titles and sections:

TITLE I—JOBS

Sec. 101. Requirement to Participate in Enhanced JOBS Program.
Sec. 102. Establishment of Enhanced JOBS Program Under Part F.
Sec. 103. Amendments Pertaining to Services and Activities Under JOBS Program.
Sec. 104. Twenty-four Month Limit.
Sec. 105. Responsibilities of Assistant Secretary for Family Support.

TITLE II—WORK

Sec. 201. Establishment of Program.
Sec. 202. Federal Funding for the JOBS and Work Programs; Participation Requirements.
Sec. 203. Administration of the JOBS and Work Programs.
Sec. 204. Special Provisions Relating to Indian Tribes and Alaska Native Organizations.
Sec. 205. Special Rules for the Territories.
Sec. 206. Training and Employment for Non-Custodial Parents.
Sec. 207. Federal Tax Treatment of Work Wages.

TITLE III—CHILD CARE

Sec. 301. Child Care for JOBS and Work Program Participants and At-Risk Families.
Sec. 302. Related Amendments.
Sec. 303. Limitation of At-Risk Child Care to Families Ineligible for Recipient or Transitional Child Care.
Sec. 304. Option to Consolidate State Responsibility for Child Care.
Sec. 305. Funding for Quality Improvement and Licensing Activities Benefitting Children Receiving AFDC or At-Risk Child Care.
Sec. 306. Funding of Child Care for Families At-Risk of Welfare Dependency.
Sec. 307. Supplement to Income Disregard.

TITLE IV—PROVISIONS WITH MULTI-PROGRAM APPLICABILITY

Sec. 401. Performance Standards.
Sec. 402. AFDC Quality Control System Amendments.
Sec. 403. National Welfare Receipt Registry; State Information Systems.
Sec. 404. Research and Evaluation; Technical Assistance; Demonstration Projects.
Sec. 405. Offsets to Mandatory Spending From Fraud, Waste, and Abuse.

TITLE V—PREVENTION OF DEPENDENCY

Sec. 501. Supervised Living Arrangements for Minors.
Sec. 502. State Option to Limit Benefit Increases for Additional Family Members.
Sec. 503. Case Management for Parents Under Age 20.
Sec. 504. State Option to Provide Additional Incentives and Penalties to Encourage Teen Parents to Complete High School and Participate in Parenting Activities.
Sec. 505. Adolescent Pregnancy Prevention Grants.
Sec. 506. Demonstration Projects to Provide Comprehensive Services to Prevent Adolescent Pregnancy in High-Risk Communities.

TITLE VI—CHILD SUPPORT ENFORCEMENT

Sec. 600. References in Title.

Part A—Eligibility and Other Matters Concerning Title IV–D Program Clients
Sec. 601. Cooperation Requirement and Good Cause Exception.
Sec. 602. State Obligation to Provide Paternity Establishment and Child Support Enforcement Services.
Sec. 603. Distribution of Payments.
Sec. 604. Due Process Rights.
Sec. 605. Privacy Safeguards.
Sec. 606. Requirement to Facilitate Access to Services.
Part B—Program Administration and Funding
Sec. 611. Federal Matching Payments.
Sec. 612. Performance-Based Incentives and Penalties.
Sec. 613. Federal and State Reviews and Audits.
Sec. 614. Automated Data Processing Requirements.
Sec. 615. Director of OSCE Program; Training and Staffing.
Sec. 616. Funding for Secretarial Assistance to State Programs.
Sec. 617. Data Collection and Reports by the Secretary.
Part C—Locate and Case Tracking
Sec. 621. Central State Case Registry.
Sec. 622. Centralized Collection and Disbursement Support Payments.
Sec. 623. Amendments Concerning Income Withholding.
Sec. 624. Locator Information From Interstate Networks and Labor Unions.
Sec. 625. National Welfare Reform Information Clearinghouse.
Sec. 626. Expanded Locate Authority.
Sec. 627. Studies and Demonstrations Concerning Federal Parent Locator Service.
Sec. 628. Use of Social Security Numbers.
Part D—Streamlining and Uniformity of Procedures
Sec. 635. Adoption of Uniform State Laws.
Sec. 636. State Laws Providing Expedited Procedures.
Part E—Paternity Establishment
Sec. 640. State Laws Concerning Paternity Establishment.
Sec. 641. Outreach for Voluntary Paternity Establishment.
Sec. 642. Penalty for Failure to Establish Paternity Promptly.
Sec. 643. Incentives to Parents to Establish Paternity.
Part F—Establishment and Modification of Support Orders
Sec. 651. National Commission on Child Support Guidelines.
Sec. 652. State Laws Concerning Modification of Child Support Orders.
Sec. 653. Study on Use of Tax Return Information for Modification of Child Support Orders.
Part G—Enforcement of Support Orders
Sec. 661. Revolving Loan Fund for Program Improvements to Increase Collections.
Sec. 662. Federal Income Tax Refund Offset.
Sec. 663. Internal Revenue Service Collection of Arrears.
Sec. 664. Authority to Collect Support From Employment-Related Payments by United States.
Sec. 665. Motor Vehicle Liens.
Sec. 666. Voiding of Fraudulent Transfers.
Sec. 667. State Law Authorizing Suspension of Licenses.
Sec. 668. Reporting Arrearages to Credit Bureaus.
Sec. 669. Extended Statute of Limitation for Collection of Arrearages.
Sec. 670. Charges for Arrearages.
Sec. 671. Visitation Issue Barred.
Sec. 672. Treatment of Support Obligations Under Bankruptcy Code.
Sec. 673. Denial of Passports for Nonpayment of Child Support.
Part H—Demonstrations
Sec. 681. Child Support Enforcement and Assurance Demonstrations.
Sec. 682. Social Security Act Demonstrations.
Part I—Access and Visitation Grants
Sec. 691. Grants to States for Access and Visitation Programs.
Part J—Effect of Enactment
Sec. 695. Effective Dates.
Sec. 696. Severability.
TITLE VII—IMPROVING GOVERNMENT ASSISTANCE AND PREVENTING FRAUD
Part A—AFDC Amendments
Sec. 701. Permanent Requirement for Unemployed Parent Program.
Sec. 702. State Options Regarding Unemployed Parent Program.
Sec. 703. Definition of Essential Person.
Sec. 704. Expanded State Option for Retrospective Budgeting.
Sec. 705. Disregards of Income.
Sec. 706. Stepparent Income.
Sec. 707. Increase in Resource Limit.
Sec. 708. Exclusions From Resources.
Sec. 710. Transfer of Resources.
Sec. 711. Limitation on Underpayments.
Sec. 712. Collection of AFDC Overpayments From Federal Tax Refunds.
Sec. 713. Verification of Status of Citizens and Aliens.
Sec. 714. Repeal of Requirement to Make Certain Supplement Payments in States Paying Less Than Their Needs Standards.
Sec. 715. Calculation of 185 Percent of Need Standard.
Sec. 716. Territories.
Part B—Food Stamp Act Amendments
Sec. 721. Inconsequential Income.
Sec. 722. Educational Assistance.
Sec. 723. Earnings of Students.
Sec. 724. Training Stipends and Allowances; Income From On-The-Job Training Programs.
Sec. 725. Earned Income Tax Credits.
Sec. 726. Resources Necessary for Self-Employment.
Sec. 727. Lump-Sum Payments for Medical Expenses or Replacement of Lost Resources.
Sec. 728. Individual Development Accounts.
Sec. 729. Conforming Amendment.
Part C—Economic Independence
Sec. 731. Short Title.
Sec. 732. Declaration of Policy and Statement of Purpose.
Sec. 733. Individual Development Account Demonstration Projects.
Sec. 734. Individual Development Accounts.
Part D—Advance EITC State Demonstrations
Sec. 741. Advance Payment of Earned Income Tax Credit Through State Demonstration Programs.
TITLE VIII—SELF EMPLOYMENT/MICROENTERPRISE DEMONSTRATIONS
Sec. 801. Demonstration Program to Provide Self-Employment Opportunities to Welfare Recipients and Low-Income Individuals.
TITLE IX—FINANCING
Sec. 901. Limitation on Federal Payments for Emergency Assistance.
Sec. 902. Uniform Alien Eligibility Criteria for Public Assistance Programs.
Sec. 903. Eligibility of Sponsored Aliens for Certain Programs.
Sec. 904. National School Lunch Program.
Sec. 905. State Retention of Amounts Recovered.
Sec. 906. Commodity Program Income Ineligibility.
Sec. 907. Amendments Related to Superfund Tax Extension.
Sec. 908. Federal Railroad Administration User Fees.
Sec. 909. Special Earned Income Tax Credit Rules for Military Personnel.
Sec. 910. Nonresident Aliens not Eligible for Earned Income Tax Credit.
Sec. 911. Extension of Certain Custom Fees.
TITLE X—EFFECTIVE DATES
Sec. 1001. Effective Dates.

(b) REFERENCE.—References herein to the "Act" are references to the Social Security Act except where otherwise provided or when the context otherwise requires.

TITLE I—JOBS

SEC. 101. REQUIREMENT TO PARTICIPATE IN ENHANCED JOBS PROGRAM.

(1) Section 402(a)(19) of the Act is amended by striking out all down through subparagraph (E)(i) and inserting in lieu thereof the following:

"(19) provide—

"(A) that the State has in effect and operation a job opportunities and basic skills training program (hereafter in this title referred to as the 'JOBS' program which meets the requirements of part F), and a program of employment (hereafter in this title referred to as the 'WORK' program) which meets the requirements of part G;

"(B) that the State will (except as otherwise provided in this paragraph or in part F), to the extent the program is available in the political subdivision involved, apply the requirements and conditions of this paragraph to "(i) each applicant for or recipient of aid to families with dependent children who—

"(I)(a) was born after 1971, or

"(b) is the parent of a dependent child and is living with such child's other parent who is an individual born after 1971 (or was living with such an individual during any month after September 1995 in which they received aid under this part), and

"(II) is the parent of a dependent child,

(but not including any individual who is eligible by application of section 407, in a State which exercises the option to limit eligibility under section 407(b)(2)(B), and (ii) thereafter any additional classes of parents of dependent children to whom the State chooses to make section 417 applicable (and identified in the State plan by date of birth, date of application, or other reasonable basis), and (iii) to any other applicants for or recipients of aid who the State chooses to require to participate in the program under part F and identifies in its State plan approved under this part;

"(C) that the State will, except as otherwise provided in this paragraph or part F—

"(i) require all individuals described in subparagraph (B) other than a child who is not a custodial parent and is under age 16 or attending full time an elementary, secondary, or vocational (or technical) school) to participate in the program under part F, and

"(ii) to the extent that Federal financial participation under section 404(k) is available, allow individuals who are not required to participate in such program, or to whom subparagraph (D) applies, to participate in

such program, except that such individual shall, in a month in which he or she meets a condition of any of clauses (i) through (vii) of subparagraph (D), be permitted to cease participation in such program, and be subject to the provisions of subparagraph (D) (for so long as they remain applicable) and the State may, at its option, apply section 417 to individuals described in subparagraph (B)(ii) and who choose to participate in the program under part F (even though they meet one of the criteria under subparagraph (D) for deferral from participation);

"(iii) with respect to individuals who wish to participate, but whom the State is not required to include under clause (ii), consider such individuals request for approval of a self-initiated education and training program and apply criteria generally applicable to approval of such activities under the State's JOBS program, but approval of such application shall only guarantee child care pursuant to subsection (g)(1)(A)(i)(II);

"(D) that participation in the program under part F will not be required and the provisions of such part, other than paragraph (1) and (2) of section 481(a) (relating to personal responsibility agreements and employability plans) will not apply, but the State may provide for participation in appropriate cases in one or more types of activities designed as preparation for participation in the program under part F, in the case of any individual described in subparagraph (B) who—

"(i) is the custodial parent of a child—

"(I) born less than one year earlier, or,

"(II) (in the case of either a child conceived during a month in which such parent received aid under this part or a child whose custodial parent is under the age of 20 and does not have a high school diploma or equivalent) born more recently than within the preceding 12 weeks (or, if greater) the number of weeks specified in section 102(a)(1) of the Family and Medical Leave Act of 1993 establishing the period of leave to which certain employees are entitled following the birth of a child, but this clause may only be applied to one parent of a child for any month;

"(ii) is a woman in the third trimester of pregnancy;

"(iii) is 60 years of age or older;

"(iv) is needed in the home because of the illness or incapacity (as confirmed by a licensed physician, psychologist, or mental health professional (from a list of such professionals approved for this purpose by the State)) of another member of the household and no other appropriate household member is available to provide the needed care;

"(v) is found, on the basis of a certification by a licensed physician, psychologist, or mental health professional (from a list of such professionals approved for this purpose by the State) to have an illness or incapacitating condition, that at least temporarily, prevents the individuals from engaging in employment or training;

"(vi) resides in an area of the State where the time required to travel to and from the site where the individual's participation in the program under part F would take place would exceed a total of two hours (or, if greater, the generally accepted commuting time in that area) in a day; or

"(viii) meets such other criteria as the State may specify in its plan that reasonably suggest an inability to participate in the program under part F, except that the average monthly number of individuals to whom this clause is applied for months in any fiscal year shall not exceed 5 percent of the average monthly number of all individuals (described in clauses (i) and (ii) of subparagraph (B)) for months in such fiscal year (or, in the case of fiscal years after 1999, 10 percent of such average monthly number) together with the average monthly number of individuals registered in the WORK program under part G for months in such year, unless the Secretary, upon a showing by the State of extraordinary or unforeseeable circumstances, allows the application of this clause to a greater number of individuals for a specified period of time;

"(E) that the State will promptly advise each applicant and recipient of the participation requirements under this paragraph and of the limitation on the number of months of eligibility for aid under this part that may be applied (as required by the provisions of section 417) to such applicant or recipient;

"(F) that—

"(i) in the case of a custodial parent who has not attained 20 years of age, does not have a high school diploma (or its equivalent), and is required to participate in the program under part F, the State will require such parent to participate in an educational activity; and".

(2) Section 402(a)(19)(E)(ii) of the Act (as in effect on the date of enactment of this Act) is amended by striking out "(notwithstanding the part-time requirement in subparagraph (C)(iii)(II))".

(3) Section 402(a)(19) of the Act is further amended—

(A) by striking out paragraph (F) (as in effect on the date of enactment of this Act),

(B) by striking out so much of subparagraph (G) as precedes clause (ii) and inserting in lieu thereof the following:

"(G) that—

"(i) if an individual who is required to participate in the program under part F refuses without good cause to accept employment of 20 hours per week or more (or such greater number of hours as the State plan provides pursuant to section 417(b)(4)(i)(IV)) in which such individual is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined to be a bona fide offer of employment, the family of which such individual is a member shall be ineligible for aid for six months or if sooner, until the first month following the month in which such individual accepts such an offer of employment; and

"(ii) if an individual who is required to participate in the program under part F fails without good cause to do so, the needs of such individual shall not be taken into account in making the determination under paragraph (7), and if such individual is the parent or other caretaker relative, at the option of the State, payments of aid for any dependent child in the family in the form of payments of the type described in section 406(b)(2) (which in such case shall be without regard to clauses (A) through (D) thereof) may be made;".

(4) Section 402 (a)(19)(G) of the Act is further amended—

(A) by redesignating clauses (ii), (iii), and (iv) as clauses (iii), (iv), and (v), respectively,

(B) by striking out in clause (iii) (as redesignated) "clause (i)" and inserting in lieu thereof "clause (ii)",

(C) by striking out in clause (v) (as redesignated) the dash and all that follows down through "(II)", and placing the text of clause (II) immediately after "this subparagraph", and

(D) by adding at the end thereof the following new clause:

"(vi) the State agency shall conduct an evaluation of the circumstances in any case in which an individual to whom a sanction is being applied under clause (iii)(I) continues after three months to fail or refuse to comply with the requirement that occasioned the imposition of the sanction, and in the case of any other individual to whom a sanction is being applied under clause (iii), and provide appropriate counseling and other supportive services to assist the individual to address the cause of the failure or refusal; and".

"(vii) during months in which a sanction is applied under this subparagraph, the family of which the sanctioned individual is a member shall be considered to be receiving aid for purposes of title XIX, and for purposes of any other Federal or Federally-assisted program, such family shall be considered to be receiving the amount of such aid that would be payable if such individual were not being sanctioned;

"(viii) during months in which a sanction is applied under this subparagraph, the family of which the sanctioned individual is a member shall be considered to be receiving aid for purpose of title XIX, and for purposes of any other Federal or Federally-assisted program, such family shall be considered to be receiving the amount of such aid that would be payable if such individual were not being sanctioned; and".

(5) Section 402(a)(42) of the Act is amended by inserting before the semicolon the following: "and if an individual is being sanctioned under section 402(a)(19)(G), such individual and all members of the family shall not become ineligible for such medical assistance by reason of such sanction".

SEC. 102. ESTABLISHMENT OF ENHANCED JOBS PROGRAM UNDER PART F.

(1) Section 481 of the Act is amended—

(A) by amending the heading of such section to read:

"PURPOSE; REQUIREMENT TO ESTABLISH AND OPERATE PROGRAM; DEFINITIONS";

(B) by redesignating subsection (b) as subsection (c);

(C)(i) by transferring subsection (a) of section 482 to section 481, and redesignating it as subsection (b); and

(ii) by amending section 481(b) (as so redesignated) by striking out "Secretary of Labor" in paragraph (1)(C) and inserting in lieu thereof "Secretary of Labor and the Secretary of Education".

(2) Section 482 of the Act is amended by striking out all that precedes subsection (c) and adding the following new heading and subsections (a) and (b):

"OPERATION OF ENHANCED STATE PROGRAMS

"SEC. 482.

(a) REQUIRED ELEMENTS OF ENHANCED JOBS PROGRAM.—

"(1)(A) PERSONAL RESPONSIBILITY AGREEMENT.—Each individual who is a parent or other caretaker relative of a dependent child and a representative of the State agency shall, at the time of application for aid under part A, sign a personal responsibility agreement. The agreement shall, in the case of individuals to whom section 417 applies, set forth in clear terms, understandable by all parties, an acknowledgment that aid under the State plan is subject to a general 24-month limit and should be considered transitional in nature. The agreement, in all cases, should acknowledge that the goal of both the individual and the State is to enable the individual to achieve maximum economic independence and self sufficiency. To this end, the individual will participate in appropriate

activities, and the State will furnish necessary enabling services and assistance.

"(B) The State agency shall provide the program and employment information required by subsection (c) as promptly as possible, but in no event later than 90 days after the earliest date for which payment is made. In the case of individuals to whom section 417 applies, the information shall be provided in person, on either an individual or group basis, and the State agency shall obtain written confirmation from the individual that the individual received and understood the program and employment information.

"(2) EMPLOYABILITY PLAN.—

"(A)(i) The State agency shall, with respect to each individual required to participate in the program under this part, other than an individual to whom section 402(a)(19)(D) applies, conduct an assessment of the educational, child care, and other supportive services needs, as well as the skills, literacy, prior work experience and employability of each participant in the JOBS program, including a review of the family circumstances. The agency may also review the needs of any child of the participant.

"(ii) On the basis of such assessment, the State agency and the individual shall, within 90 days from the earliest date for which payment is made, jointly develop an employability plan for such individual. The purpose of the employability plan is to lay out the fastest and most effective way to help the participant find employment and become self-sufficient. The plan shall indicate the overall period of time that is expected to be necessary to achieve the individual's employment goal, taking into consideration, in the case of individuals to whom the provisions of section 417 apply, the maximum remaining period of time for which aid may be paid to such individual under the plan approved under part A. The plan will detail the activities in which the individual will be expected to engage in order to find employment, including job search, employment training and preparation, or education. The plan must be reasonable in light of the individual's literacy, skills, and needs, and the resources and opportunities for employment (including self-employment) within the community where the individual resides, and shall, to the maximum extent possible and consistent with this section, reflect the preferences of such individual. The employability plan shall also describe the child care and other social services and assistance which the State agency will provide in order to allow the individual to take full advantage of the activities under the program operated under this part, and the steps the individual should take to bring promptly to the attention of the State agency any difficulties the individual is encountering in participating in the program under this part. The employability plan shall not be considered a contract.

"(iii) The State plan shall provide that, if an individual works an average of 20 hours a week (or such greater number, but not more than 30, as the State plan may provide) or more in a position of employment, work in such position shall constitute the primary activity under such individual's employability plan.

"(B) The State plan under this part must provide for a review mechanism that will be available should the individual and the State agency be unable to agree on the content of the employability plan. The review process shall, at the least, provide for prompt involvement of another employee (or designee) of the State agency with supervisory or greater responsibilities than the person with whom the individual is in disagreement to provide further negotiation support. If agreement still cannot be reached, the State agency shall, in accordance with regulations of the Secretary, afford the individual access to arbitration or a mediation process, to a more formal review or hearing, or to a combination of such processes.

"(C) Failure or refusal by an individual to sign an agreed upon employability plan, or to sign a plan with respect to which the applicable processes under subparagraph (B) have been completed and under which the employability plan has been found appropriate, shall result in denial of aid with respect to such individual, except that no sanction or other penalty shall continue under this subparagraph after the individual has signed an appropriate plan.

"(3) EMPLOYABILITY PLAN FOR DEFERRED INDIVIDUALS.—The State agency and each individual for whom participation in activities has been found appropriate under section 402(a)(19)(D) shall jointly develop an employability plan. The plan shall place primary emphasis on the activities in which the individual is able to engage that, together with any services provided by the State, will best prepare the individual for full participation in the program under this part. Plans under this paragraph are not subject to the procedures of paragraph (2).

"(4) CASE MANAGER.—the State agency may assign a case manager to each participant and the participant's family who will be responsible for assisting the family to obtain any services which may be needed to assure effective participation in the program.

"(5) PERIODIC ASSESSMENT.—At such intervals as the State agency finds appropriate, but not less frequently than once every 6 months, a representative of the State agency and the individual shall conduct a review of the individual's employability plan (including the plan of an individual to whom paragraph (3) applies) and the progress that is being made to achieve the goals set in the plan. The State agency shall consider, in conducting the assessment, whether an individual participating in activities under section 402(a)(19)(D) has become ready to participate in the program under this part, or whether an individual required to participate under this part should no longer be so required and instead should participate in such activities. If it is concluded that there should be any such change in status, the individual's employability plan shall be revised accordingly effective with the month following the month in which the revision is made. In the case of an individual participating in the program under this part, the assessment shall specifically address both the individual's participation and the State agency's delivery of services as agreed to in the employability plan. If it is found in the course of an assessment that there has been a substantial failure to provide services to the recipient in accordance with the employability plan, the plan (or some other State agency record) must document that finding, and the period during which the failure occurred.

"(6) REVISION OF EMPLOYABILITY PLAN.—The employability plan may be revised as necessary following an assessment under paragraph (5) or at any other time that events warrant it, upon the agreement of the individual and the State agency. If there is disagreement about the need for revision, or the respects in which the plan will be revised or the new content of the plan, the procedures described in paragraph (2)(B) will be applicable.

"(7) The State agency may require that, in the case of an individual described in section 402(a)(19)(B) and whose employability plan, including an employability plan under paragraph (3), reflects the need for treatment for substance abuse, such individual participate in substance abuse treatment that is available without charge to the individual. The State plan may, notwithstanding any other provision of law, make applicable to any individual required to participate in such treatment activities the provisions of section 402(a)(19)(G), and if so, shall advise the individual of the consequences of failure or refusal to accept treatment.

"(b) TRANSITION TO WORK PROGRAM.—(1) The State agency shall schedule a meeting with each individual subject to the time limit under section 417, with adequate advance notice to the individual, not later than 90 days prior to the first month for which such individual will become ineligible for aid under part A by reason of such time limit. The State agency shall evaluate the individual's progress under the employability plan, determine whether any extensions (as allowed under section 417) are necessary and available, and advise the individual about the job search requirement (described in paragraph (2)) and the steps that must be taken thereafter to register for the program under part G. If a meeting is held with the individual in connection with a redetermination of eligibility, periodic assessment, or for any other purpose, within the 6-month period preceding the first month of ineligibility by reason of section 417, the State agency may take the steps required by this paragraph at such meeting in satisfaction of this requirement.

"(2) Not later than 45 days prior to the close of the twenty-fourth month of receipt of aid under part A (or, at the option of the State, at an earlier date after the twenty-first month of receipt of such aid), the individual shall be required to engage in job search to the extent consistent with the goals of such individual's employability plan. Engaging in job search for the period of time required by the State under the preceding sentence shall be a prerequisite to receipt of a work assignment under the WORK program established and operated under part G. For purposes of this subparagraph, 'month of receipt of aid under part A' shall not include any month prior to the first month in which this subparagraph was in effect.

"(3) References to applicants, or to actions that must occur at the time of application or from the earliest date for which payment is made, in the amendments made by this section, shall be construed to include references to recipients, and actions that must occur at the time of the first redetermination of eligibility by a State for aid to families with dependent children occurring after the effective date of such amendments in such State.".

SEC. 103. AMENDMENTS PERTAINING TO SERVICES AND ACTIVITIES UNDER JOBS PROGRAM

(a) REPEAL OF REDUNDANT PROVISION.—Section 482(c) of this Act is amended by repealing paragraph (5).

(b) REQUIREMENT TO PROVIDE JOB SEARCH SERVICES.—Section 482(d)(1)(A) of the Act is amended—

(1) in clause (i), by redesignating subclauses (I through (IV) as (II) through (V), respectively,

(2) by inserting before subclause (II) (as redesignated) the following:

"(I) group and individual job search as described in subsection (g);", and

(3) in clause (ii), by repealing subclause (I) and redesignating subclauses (II) through (IV) as subclauses (I) through (III), respectively.

(c) EMPLOYMENT-ORIENTED EDUCATION.—Section 482(d)(1)(A)(i)(II) of the Act as redesignated is amended by striking out "basic and remedial education to achieve a basic literary level" and inserting in lieu thereof "employment-related education to achieve literacy levels needed for economic self-sufficiency".

(d) SELF-EMPLOYMENT PROGRAMS.—Section 482(d)(1)(A)(ii) of the Act (as redesignated) is amended—

(1) by striking out "and" after clause (II) (as redesignated), and

(2) by adding "and" after clause (III), and

(3) by adding after and below clause (III) (as redesignated), the following:

"(IV) programs to prepare for self-employment or to enable individuals to establish a microenterprise.".

(e) CHILD CARE PROVIDER TRAINING AND NONTRADITIONAL EMPLOYMENT.—Section 482(d)(1)(B) of the Act is amended by adding at the end thereof the following new sentence: "The State shall include in its plan a description of whether and how it will provide training to prepare individuals to be child care providers. The State shall also include in its plan a description of the steps it will take to encourage the training and placement of participants in nontraditional positions of employment, including steps to increase program participants' awareness of the availability of such training and placement opportunities.".

(f) WORK SUPPLEMENTATION EXTENSION.—Section 482(e) of the Act (as redesignated) is amended—

(1) in paragraph (2)(G)—

(A) by striking out "9 months" and inserting in lieu thereof "12 months", and

(B) by striking out "without regard to the provisions of subparagraph (b)(ii)(II) of such section"; and

(2) in paragraph (4)(A), striking out "9 months" and inserting in lieu thereof "12 months".

(g) AMENDMENTS TO JOB SEARCH PROGRAM.—Section 482(g) of the Act is amended—

(1) in paragraph (1) by striking out "may" and inserting in lieu thereof "shall";

(2) by amending so much of paragraph (2) as precedes subparagraph (A) to read as follows:

"(2) The State agency may require job search by an individual who is applying for and shall upon approval of the application require job search by an individual who is receiving aid to families with dependent children and is determined by the State to have non-negligible work experience, or to have a high school diploma or equivalent, including individuals required by the State's exercise of its option under section 402(a)(19)(B) (i) and (ii) to participate in the program under this part—";

(3) in paragraph (2)(A), by striking out "8 weeks" and inserting in lieu thereof "12 weeks", and

(4) by amending paragraph (2)(B) to read as follows:

"(B) at such time or times thereafter as the State agency many determine, but not to exceed a total of 4 months in any 12-month period (and for this purpose, there shall be included the time that the individual engaged in job search pursuant to both subparagraph (A) and section 482(c), but not any period of job search that occurred at the same time that the individual was participating in another activity under this part.".

(h) PROCEDURES TO RESOLVE DISPUTES.—Section 482(h) of the Act is amended by striking out "shall establish" and all that follows down to "shall provide an opportunity for a hearing" and inserting in lieu thereof "shall establish either (A) a conciliation procedure, meeting standards established by the Secretary, for the resolution of disputes involving an individual's participation in the program, or (B) a procedure that includes advance notice to the individual of an apparent failure to comply with a program requirement, and 10 days in which to contact and meet with a State agency representative in order to resolve the dispute (or to comply with the requirements) and make unnecessary the imposition of a sanction. If the dispute is not resolved through whichever of these procedures the State adopts, the State agency".

(i) COORDINATION REQUIREMENTS.—Section 483(a)(1) of the Act is amended by inserting immediately following "the Job Training Partnership Act" in the first sentence", the Adult Education Act, the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990,".

(j) PROVISIONS GENERALLY APPLICABLE TO PROVISION OF SERVICES UNDER JOBS AND WORK.—SECTION 484 OF THE ACT, INCLUDING THE HEADING, IS AMENDED TO READ AS FOLLOWS:

"PROVISIONS GENERALLY APPLICABLE TO PROVISION OF SERVICES UNDER JOBS OR WORK

"Sec. 484. (a) In assigning participants in the program under this part to any program activity, or in assigning individuals registered with the program under part G to a position of employment, the State agency shall assure that—

"(1) each assignment takes into account the capacity, health and safety, family responsibilities, and place of residence of the participant;

"(2) no participant will be required, without his or her consent, to travel an unreasonable distance from his or her home or remain away from such home overnight;

"(3) individuals are not discriminated against on the basis of race, color, sex, national origin, religion, age, or disability, and all participants will have such rights as are available under any applicable Federal, State, or local law prohibiting discrimination;

"(4) no such assignment will—

"(A) result in the displacement of any currently employed worker, including partial displacement such as a reduction in the hours of non-overtime work, wages, or employment benefits;

"(B) impair existing contracts for services or collective bargaining agreements;

"(C) infringe upon the promotional opportunities of any currently employed worker;

"(D) result in the employment of the participant or filling of a position when—

"(i) any other person is on layoff, on strike or has been locked out from, or has recall rights to, the same or a substantially equivalent job or position with the employer; or

"(ii) the employer has terminated any regular employee or otherwise reduced its workforce with the effect of filling the vacancy so created with such participant; or

"(E) result in filling a vacancy for a position in a State or local government agency for which State or local funds have been budgeted, unless such agency has been unable to fill such vacancy with a qualified applicant through such agency's regular employee selection procedure during a period of not less than 60 days;

"(5) no participant shall be assigned to a position to perform work under a contract for services for the first 90 days after the commencement of such contract if such contract immediately succeeds a contract for services under which an employee covered by a collective bargaining agreement performed the same or substantially similar work for another employer;"

"(6) no participant shall be assigned to a position with a private nonprofit entity to carry out activities that are the same or substantially equivalent to activities that have been regularly carried out by a State or local government agency in the same local area, unless such placement meets the nondisplacement requirements of paragraph (4);

"(7) to the extent that a State workers' compensation law is applicable, workers' compensation benefits in accordance with such law shall be available with respect to injuries suffered by participants, and, to the extent that such law is not applicable, participants shall be provided with medical and accident protection for on-site injuries in accordance with regulations issued by the Secretary;

"(8) health and safety standards established under State and Federal law that are otherwise applicable to the working conditions of employees shall be equally applicable to the working conditions for participants; and

"(9) the State will establish and maintain grievance procedures, meeting the requirements of subsection (c), for resolving complaints by regular employees or their representatives alleging violations of the nondisplacement provisions described in paragraph (4), or of the requirements relating to wages, benefits and working conditions under this title.

"(b) A grievance procedure that meets the requirements of this subsection must include the following procedures:

"(1) DEADLINES.—Hearings on any grievance filed pursuant to subsection (a)(8) shall be conducted within 30 days of the filing of such grievance and a decision shall be made not later than 60 days after the filing of such grievance. A grievance shall be made not later than 45 days after the date of the alleged occurrence.

"(2) APPEALS.—Upon receiving a decision under paragraph (1), or if 60 days has elapsed without a decision being made, a grievant may either—

"(A) file an appeal as provided for in the State's procedures or in regulations promulgated by the Secretary, or

"(B) submit such grievance to binding arbitration in accordance with paragraph (3).

"(3) ARBITRATION.—

"(A) IN GENERAL.—

"(i) JOINTLY SELECTED ARBITRATOR.—In accordance with paragraph (2) on the occurrence of an adverse grievance decision, or 60 days after the filing of such grievance if no decision has been reached, the party filing the grievance shall be permitted to submit such grievance to binding arbitration before a qualified arbitrator who is jointly selected and independent of the interested parties.

"(ii) IMPASSE PROCEDURES.—If the parties are unable to agree on an arbitrator within 20 days from when the request for arbitration is filed, the parties shall request the Federal Mediation and Conciliation Service or the American Arbitration Association to submit a list of arbitrations. The parties shall alternately strike names from such list until the name of one person remains, who shall be the arbitrator.

"(B) DEADLINES.—An arbitration proceeding conducted pursuant to subparagraph (A)(i) shall be held not later than 45 days

after the request for such arbitration, or if the arbitrator is appointed pursuant to paragraph (A)(ii), not later than 30 days after such appointment, and a decision concerning such grievance shall be made not later than 30 days after the date of such arbitration proceeding.

"(C) COST.—

"(i) IN GENERAL.—The cost of the arbitration proceeding conducted under this subsection shall be divided evenly between the parties to the arbitration.

"(ii) EXCEPTION.—If a grievant prevails under the arbitration proceeding conducted under this subsection, the party found in violation of the requirements of this part shall pay the total cost of such proceeding and the attorney's fees of the grievant.

"(D) ENFORCEMENT.—Suits to enforce arbitration awards under this subsection may be brought in any district court of the United States having jurisdiction over the parties, without regard to the amount in controversy and without regard to the citizenship of the parties.

"(4) REMEDIES.—Remedies for a grievance filed under this subsection include—

"(A) suspension of payments to employers;

"(B) the termination of such payments;

"(C) the prohibition of the placement of a participant;

"(D) reinstatement of a displaced employee to the position held by such employee prior to displacement;

"(E) payment of lost wages and benefits of the displaced employee;

"(F) reestablishment of other relevant terms, conditions, and privileges of the displaced employee; and

"(G) such equitable relief as is necessary to correct a violation or to make a displaced employee whole.

"(c) Written Notification of Labor Organizations.—

"(1) No position of employment with an employer may be established under title part unless the local labor organization representing employees of such employer who are engaged in the same or substantially similar work as that proposed to be carried out under such position have been provided written notification of the initial assignment of a participant to such position not less than 30 days prior to the commencement of such assignment. No such notification shall be required with respect to the subsequent assignment of participants to the same position with the same employer.

"(2) If a local organization provided notice of an assignment pursuant to paragraph (1) objects to an assignment of a participant pursuant to paragraph (1) objects to an assignment of a participant on the basis that such assignment would violate the requirements relating to nondisplacement, wages, benefits, or working conditions under this title, such organization may, as an alternative to the grievance procedures provided pursuant to subsection (b), file a complaint pursuant to an expedited grievance procedure. Such expedited procedure shall be carried out in accordance with the binding arbitration procedures described in subsection (b)(3), except that—

"(A) the request for arbitration shall be filed within 30 days of receiving written notice,

"(B) the arbitrator shall be jointly selected by the parties not later than 10 days after the request for arbitration, or, if the parties are unable to agree, appointed by the Federal Mediation and Conciliation Service (or another entity is agreed to by both parties) not later than 15 days after the request for arbitration, and

"(C) the proceeding shall be conducted and a decision issued not later than 30 days after the request for arbitration.

"(3) If a local organization files a complaint pursuant to the expedited grievance procedure under paragraph (2), a participant shall not be placed in the position that is the subject of the complaint until it is determined pursuant to the expedited procedure that such placement would not be in violation of this title.

"(d) In assigning participants in the JOBS program under this part to any program activity, the State agency shall, in addition to the assurances required under subsection (a), assure that—

"(1) the conditions of participation are reasonable, taking into account in each case the experience and proficiency of the participant and the child care and other supportive services needs of the participant; and

"(2) each assignment is based on available resources, the participant's circumstances, and local employment opportunities.

"(e) In assigning individuals registered with the State's WORK program under part G to a position of employment, the State agency shall, in addition to the assurance required under subsection (a), assure that—

"(1) no individual eligible to register for the State's WORK program, determined in accordance with the provisions of part A and this part, shall be excluded from such program;

"(2) no family with a member eligible to participate in the State's program under part G will, by reason of such assignment, and upon participating the full number of hours provided by such assignment, have income less than the amount such family would have if it were receiving aid under the State's plan approved under part A and had no other income (except if a sanction is applied under section 496(f));

"(3) each family with a member participating in the program under part G shall be considered to be receiving aid to families with dependent children for purpose of the State's plan approved under title XIX;

"(4) where a labor organization represents a substantial number of employees who are engaged in similar work in the same area as that proposed to be funded under part G, an opportunity shall be provided for such organization to submit comments with respect to such proposal;

"(5) participants employed under the WORK program shall be compensated for such employment in accordance with appropriate law, but in no event at a rate less than the highest of—

"(A) the Federal minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938;

"(B) the rate specified by the appropriate State or local minimum wage law; or

"(C) the rate paid to employees of the same employer performing the same type of work and having similar employment tenure with such employer; and

"(6) except as otherwise provided under this paragraph, participants employed under the WORK program shall be provided benefits (including health benefits, unless the State agency concludes that it would impose an undue financial burden on either the employer or the State), working conditions and rights at the same level and to the same extent as other employees of the same employer performing the same type of work and having similar employment tenure with employer.

"(f) Funds available to carry out the program under this part, or under part G, may not be used to assist, promote, or deter union organizing.

"(g) The provisions of this section apply to any work-related programs and activities under this part or under part G (as provided herein), and under any other work-related programs and activities authorized (in connection with the AFDC program) under section 1115.".

SEC. 104. TWENTY-FOUR MONTH LIMIT.

Part A of title IV of the Social Security Act is amended by redesignating section 417 as section 419 and adding after and below section 416 the following new section:

"SEC. 417. TWENTY-FOUR MONTH LIMIT.

"(a) LIMITATION.—(1) IN GENERAL.—Notwithstanding any other provision of law, a State plan approved under this part must provide that, except as otherwise provided in this title, aid to families with dependent children will not be payable to an individual to whom section 402(a)(19)(B)(i) or (ii) applies or to individuals who have chosen to participate in the program under part F and to whom the State has elected under section 402(a)(19)(C) to apply this section, or to his or her dependent child or children living in the same home with such individual for any month after the twenty-fourth month (whether or not such months are consecutive) for which such individual has, together with his or her dependent child or children, received aid under the State's plan, or under the plan of any other State, approved under this part. The limitation in the preceding sentence shall not apply to (A) an individual who has received such aid for 24 months and who is working to the extent described in clause (IV) or (V) of paragraph (2)(B)(i), whichever may be applicable, or (B) an individual's dependent child or children if they are living with another relative specified in section 406(a)(1) who is not subject to, or has not received aid for months in excess of, the limit prescribed by, this section.

"(2) APPLICABILITY.—In applying paragraph (1)—

"(A) if an individual has previously received aid under a State plan approved under this part for more than 18 months, the number of months for which an individual is considered to have previously been paid aid under such a State plan shall be reduced by one month for every period of four months throughout which no such aid was paid, and no wages under the program under part G were paid but such number of months shall never be reduced to fewer than 18 (regardless of whether such periods of four months were consecutive); and

"(B)(i) there shall not be included, as a month in which an individual received aid under a State plan approved under this part—

"(I) any month prior to the first month for which this section is in effect in such State, or in the case of a recipient of aid in such State for the month preceding such month, the first month in which such individual's eligibility is redetermined by such State;

"(II) any month prior to the first month in which payment of aid under this part was authorized with respect to such individual;

"(III) any month prior to the month in which such individual attains age eighteen;

"(IV) any month during which the individual worked 20 hours a week (or such greater number, but not more than 30, as the State plan under part F provides) or more;

"(V) any month during which the total average number of hours worked per week by both parents, in a family eligible by reason of section 407 and in which section 402(a)(19)(D) is applicable to neither parent,

exceeds 30 hours (or such greater number, but not more than 40, as the State plan under part F provides); or

"(VI) any month during which section 402(a)(19)(D) was applicable to such individual; and

"(ii) there shall be included each month for which aid would have been paid but for the applicability to such individual of a sanction under section 402(a)(19)(G) or 402(a)(26).

For purposes of clauses (i)(IV) and (V), there shall not be excluded any month in which the individual fails to accept an offer of additional hours of employment, or in which such individual reduces the hours of employment and thereby becomes eligible for additional amounts of aid under this part.

"(b) NOTICE TO INDIVIDUALS.—A State plan approved under this part shall provide that notice will be given to each member of a family to whom the time limit under subsection (a) applies, not less frequently than once every six months, concerning the number of months of eligibility remaining for each such member. The notice required by this subsection may be given together with the payment of aid.

"(c) EXTENSION OF LIMIT.—

"(1) EXTENSION BY REASON OF FAILURE TO PROVIDE SERVICES.—The State agency shall extend the twenty-four-month limit referred to in subsection (a) in the case of an individual who has been unable to complete the education, training, or other activities intended to prepare such individual for employment by reason of the substantial failure of the State agency to provide or arrange for the provision of child care or any other service agreed upon in the individual's employability plan. A finding of failure to provide services shall be based on the documentation made at the semi-annual assessment (required by section 482(a)(5)), together with any reports or information either the individual or the State agency may have with respect to the period between the assessment and the close of the twenty-fourth month. The time limit shall be extended for so many months as are necessary to allow the individual to complete the activities agreed upon in the employability plan, but in no event may such extension exceed an additional 24 months.

"(2) EXTENSION TO COMPLETE COURSE OF EDUCATION.—

"(A) The State agency shall extend the twenty-four-month limit referred to in subsection (a)—

"(i) in the case of an individual receiving services under the Individuals with Disabilities Education Act, for so long as necessary to permit such individual to attain a high school education (or the equivalent) or, if sooner, until such individual reaches age 22; and

"(ii) in the case of an individual in a structured learning program (as defined in paragraph (4)), including a program under the School-to-Work Opportunities Act of 1993, for so long as necessary to permit such individual to complete the program or, if sooner, until such individual reaches age 22.

"(B) Subject to subsection (e), the State agency may extend the twenty-four-month limit referred to in subsection (a)—

"(i) for no more than 12 additional months in order to allow an individual to complete high school (or an equivalent program of education), so long as the individual is making satisfactory progress toward obtaining a high school diploma (or equivalent);

"(ii) for no more than 24 additional months in order to allow an individual to complete a post-secondary program so long as the individual is enrolled in a work-study program, or is employed at least 15 hours per week, and is making satisfactory progress toward completing a degree-granting or certificate-granting education or training program, or structured microenterprise or self-employment program likely to improve the individual's economic self-sufficiency; or

"(iii) for such additional number of months as it finds appropriate in any case, determined on an individual basis, where such extension is necessary to afford an individual with significant learning disabilities or other substantial barriers to employment additional time to obtain the remedial education, job skills training, or other services specified in the employability plan needed to enable the individual to secure employment.

"(3) EXTENSION OF EMPLOYABILITY PLAN.—The State agency shall extend, and if appropriate revise, the employability plan of each individual with respect to whom an extension is provided under this subsection, and shall continue to furnish, through the months of the extension, the supportive services for which the extended plan provides.

"(4) As used in this subsection, a 'structured learning program' means one that begins at the secondary school level, continues into a post-secondary program, and is designed to lead to a degree or recognized skills certificate.

"(d) EXCEPTION FOR TRANSITION TO UNSUBSIDIZED EMPLOYMENT.—The State may, at its option, provide for continuing for one additional month the payment of aid to an individual (and his or her dependent child or children) under the State plan, notwithstanding subsection (a), in any case where such continued payment is necessary to assist the individual who is about to commence a position of employment (other than as a participant in the program under part G) until receipt of the first payment of wages. The State plan shall describe the evidence of employment that the State will require in order that payment may be continued under this subsection.

"(e) LIMITATION ON AVERAGE MONTHLY NUMBER OF EXTENSIONS.—If the average monthly number of individuals with respect to whom the State has extended the twenty-four month limit by application of subsection (c)(1) or (c)(2)(B) in any fiscal year exceeds 10 percent of the average monthly number of individuals to whom this section applies (and who are required to participate in the program under part F) in the fiscal year involved, the provisions of section 403(k)(6) (reducing Federal payments under section 403(a)) shall apply, unless the Secretary, upon a showing by the State of extraordinary or unforeseeable circumstances, allows the application of such subsections to a greater number of individuals for a specified period of time.

"(f) ALTERNATIVE TIME LIMIT DEMONSTRATIONS.—Notwithstanding any other provision of this part, the Secretary may permit not more than five States to conduct demonstrations to determine what effects, if any, application of time limits of other than twenty-four months would have in promoting the objectives of the part. The Secretary shall approve a demonstration only if the proposed time limit is consistent with both the purpose of making AFDC a transitional program and affording recipients with support to enable them to prepare themselves to obtain unsubsidized employment. Any State applying a time limit other than that specified in subsection (a) shall evaluate both the short and long term effects of such time limit in enabling recipients to become self-sufficient and shall report the results of such evaluation to the Secretary.".

SEC. 105. RESPONSIBILITIES OF ASSISTANT SECRETARY FOR FAMILY SUPPORT.

Section 419 of the Act, as redesignated by section 104 of this Act, is amended by striking out "and part F" and inserting in lieu thereof "part F, and part G".

TITLE II—WORK

SEC. 201. ESTABLISHMENT OF PROGRAM.

(a) Title IV of the Act is amended by adding at the end thereof the following new part:

"PART G—WORK

"SEC. 491. PURPOSE AND DEFINITIONS.

"(a) PURPOSE.—It is the purpose of this part to assist States in developing and providing positions of employment for individuals who have received aid to families with dependent children for 24 months, and participated in the program under part F, but have not been able to secure unsubsidized employment.

"(b) DEFINITION.—As used in this part, a 'WORK position' is a position of employment to which an individual is assigned under this part.

"SEC. 492. ESTABLISHMENT AND OPERATION OF STATE PROGRAMS.

"(a) REQUIREMENT.—Each State shall establish and operate a program to locate and create temporary positions of employment (in this part referred to as the 'WORK program') for individuals who have received aid for 24 months, as provided in section 417. The WORK program shall be in effect in each political subdivision of the State not later than 2 years after the State's program under part F is in effect in such subdivision.

"(b) STATE PLAN.—The State shall establish and operate its WORK program under a plan approved by the Secretary which describes how the State will implement the plan, and indicates, through cross-references to the appropriate provisions of this part and of parts A and F, that the program will be operated in accordance with such provisions of law. The State plan shall describe the strategies and activities to be undertaken by the State to identify and develop WORK positions. Such strategies shall, to the extent practicable, be designed to identify and develop positions likely to result in the placement of participants in unsubsidized employment. The strategies and activities may include—

"(1) wage subsidies or other incentives to for-profit, nonprofit, and public employers to employ participants;

"(2) performance-based contracts with public or nonprofit or other private organizations to place participants in unsubsidized employment;

"(3) payments to nonprofit employers to assist in supervising participants employed by such employers;

"(4) assistance to participants in establishing microenterprises and other self-employment efforts;

"(5) payments to nonprofit employers and public agencies to employ participants in temporary projects designed to address community needs, such as projects to enhance neighborhood infrastructure and provide other community services; and

"(6) payments to employers to employ participants as child care providers.".

"(c) COORDINATION WITH JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM.—The State plan submitted to the Secretary to carry out the requirements of this part shall, together with the State plan required to carry out part F, constitute a single plan

and shall, to the maximum extent feasible, reflect an integrated strategy to assist the individuals and families served under the plan to achieve economic self-sufficiency.

"(d) WORK ADVISORY BOARDS.—

"(1) DESIGNATION.—The State plan shall designate, or describe a process for establishing or designating, a WORK advisory board for each local area in the State to provide advice and guidance in the administration of the program under this part. The State shall ensure the participation of local elected officials in the designation or establishment of such boards.

"(2) LOCAL AREA.—The local areas for which WORK advisory boards shall be designated or established pursuant to paragraph (1) may be—

"(A) service delivery areas established under section 101 of the Job Training Partnership Act;

"(B) the geographic boundaries of the labor market areas in the State; or

"(C) such other areas as the Governor determines are appropriate to promote the effective administration of the WORK program.

"(3) COMPOSITION.—Each WORK advisory board designated or established pursuant to paragraph (1) shall consist of—

"(A) representatives of private sector employers,

"(B) representatives of organized labor;

"(C) representatives of not-for-profit organizations, including community-based organizations;

"(D) representatives of local government, such as local, elected officials and representatives of economic development agencies, human service agencies, and educational agencies; and

"(E) such other community leaders as the State determines are appropriate.

"(4) FUNCTIONS.—Each WORK advisory board shall provide comments to the State agency relating to the State plan developed pursuant to subsection (b) of this section. In addition, each WORK advisory board shall provide advice and guidance to the agency administering the WORK program in the local area relating to)—

"(A) the identification of potential WORK positions;

"(B) opportunities for placing WORK participants in unsubsidized employment;

"(C) methods for ensuring compliance with the requirements of this part relating to nondisplacement and working conditions;

"(D) methods for carrying out the coordination requirements specified in subsection (e) of this section; and

"(E) such other aspects of the WORK program that such board determines are appropriate.

"(e) COORDINATION WITH OTHER PROGRAMS AND ENTITIES.

"(1) IN GENERAL.—The State plan shall include a description of the cooperative arrangements established with appropriate programs and agencies to enhance the administration of the program under this part, including arrangements with—

"(A) the Employment Service, and

"(B) other relevant employment and public service programs administered through public and private entities, such as programs supported under the Job Training Partnership Act and the National and Community Service Act and with programs under the CCDBG Act to explore the development of positions in child care for WORK program participants.

"(2) LOCAL COORDINATION.—The entity administering the WORK program in local areas shall, in addition to establishing linkages with the programs and agencies described in paragraph (1), establish cooperative arrangements with other appropriate entities to enhance the administration of the program under this part. Such arrangements may be established with local government and service agencies, public housing agencies, community-based organizations, business and labor organizations, voluntary organizations, and other appropriate entities.

"SEC. 493. ELIGIBILITY FOR WORK PROGRAM; REGISTRATION.

"(a) ELIGIBILITY.—(1) IN GENERAL. An individual—

"(A) to whom section 417 applies, who has received aid under the State plan approved under part A for twenty-four months, and with respect to whom no extension under section 417 has been provided,

"(B) who is not an individual to whom section 402(a)(19)(D) applies, and

"(C) who meets the eligibility criteria for aid to families with dependent children (but for section 417) under the State's plan approved under part A,

shall be permitted to register for participation in the State's WORK program and, upon registration and continuing compliance with the requirements applicable to individual's awaiting assignment to a WORK position, be eligible for such an assignment and, in accordance with the succeeding provisions of this part, a payment of aid to families with dependent children.

"(2) SPECIAL RULES.—The State plan shall specify whether one or both parents will be required to register with and participate in the WORK program as a condition of eligibility for an assignment for either parent under the WORK program and a payment of aid to the family, in the case of a family in which both parents are subject to the limit in section 417.

"(b) REGISTRATION.—The State plan shall establish a simple procedure under which an individual who meets the criteria of subsection (a) may register with and participate in the WORK program so that the individual will receive wages (if an appropriate assignment is available) or aid, or (if applicable) both, in the month following the final month of the time limit under section 417. The State plan must describe the methods that will be employed to assure the uninterrupted provision of aid for the family of an individual who has complied with all applicable requirements and conditions of this part.

"(c) WORK PROGRAM ASSESSMENT.—The State plan shall provide for the prompt assessment of each individual registering with the program, in order to determine an appropriate assignment for such individual. The assessment must include a review of the individual's education, training, and employment experience while participating in the program under part F, as well as any employment experience the individual may have had thereafter.

"(d) LIMITATIONS ON ASSIGNMENTS.—

"(1) HOURS OF WORK.—The State plan shall—

"(A) ensure, to the extent practicable, that participants' wages earned from WORK positions provide on the average 75 percent of the sum of wages together with aid paid to participants in the States WORK program;

"(B) ensure no assignment will result in an average number of hours of work over any four-week period that is less than 15 hours per week or greater than 35 hours per week; and

"(C) provide that in making WORK assignments the State agency shall, to the maximum extent feasible, ensure that an assignment to a WORK position will not interfere with any hours of unsubsidized employment in which the individual is already engaged at the time of the assignment.

"(2) LENGTH OF ASSIGNMENT.—An assignment to a WORK position shall be for no longer than 12 months and may not be reassigned to the same position.

"(e) PAYMENT OF AID.—The State agency administering the State's plan approved under part A shall pay for each month to each family with an individual registered with the WORK program the amount of aid that would be payable to such family under such plan, except that—

"(1) wages earned by a family member from employment in a WORK position shall not be considered in determining eligibility for continued participation in the WORK program;

"(2) in determining the amount of aid that is payable, the State agency may determine whether to disregard from the wages received from the WORK position any amounts that may be disregarded under section 402(a)(8)(A)(iv);

"(3) if a family member has been assigned to and is employed in a WORK position, the amount of the family's aid will not be subject to increase by reason of the individual's failure to perform the full number of hours per week for which the assignment was made.

"(f) TREATMENT UNDER OTHER LAWS.—;

"(1) Individuals participating in the WORK program, and their families, whether or not any aid is payable in addition to wages from a WORK position, shall be considered to be receiving such aid for purposes of the State's plan for medical assistance approved under title XIX.

"(2) Wages paid for employment in a WORK position shall be treated as if they were wages from unsubsidized employment for purpose of any other Federal law unless it is expressly provided otherwise in Federal law.

"(g) PROGRAM PARTICIPANTS.—The Secretary may by regulation prescribe criteria for determining when an individual's employment no longer constitutes participation in the WORK program.

"SEC. 494. PROVISIONS GENERALLY APPLICABLE TO WORK POSITIONS.

"(a) IN GENERAL.—In addition to the applicable provisions of section 484, the conditions described in this section shall be applicable to WORK positions.

"(b) PROHIBITION ON CONTRIBUTIONS FOR RETIREMENT BENEFITS.—No funds available under this title may be used for contributions to a retirement plan on behalf of any participant.

"(c) EXCLUSION FROM UNEMPLOYMENT COMPENSATION.—The employment of participants under the WORK program shall not be subject to the provisions of any Federal or State unemployment compensation law.

"(d) SICK AND PERSONAL LEAVE.—The Secretary is authorized to issue regulations establishing a minimum number of hours that a participant may be on leave from a WORK position due to illness or other reasons specified by the Secretary without having the amount of wages payable to such participant reduced to account for such leave. In accordance with paragraph (1) of this subsection, the regulations shall provide that if the employer provides, to similarly situated regular employees, paid leave that is equal to or exceeds the minimum prescribed by the Secretary, the employer shall also provide such paid leave to a participant. If the employer

does not provide such paid leave, the State agency shall implement such leave.

"(e) RECORDS ON RETENTION OF PARTICIPANTS.—The entity administering the WORK program shall maintain records on the extent to which each employer receiving assistance under this part retains participants in unsubsidized employment subsequent to the completion of WORK assignments.

"SEC. 495. PRE-ASSIGNMENT ACTIVITIES AND SERVICES; PRIORITY OF ASSIGNMENTS; POST-ASSIGNMENT ASSESSMENT

"(a) ASSIGNMENTS.—The State plan approved under this part shall provide for the establishment and maintenance of a registry, updated regularly and frequently, of all registered individuals who are awaiting assignment to a WORK position. The State plan shall describe the criteria that will generally be applied for determining the order in which registered individuals will be assigned to positions. Such criteria must provide for assigning, as promptly as an appropriate position becomes available, and individual to whom a sanction is being applied under section 496(f)(2)(A) (in the case of a first failure to comply with a requirement of the WORK program) or who has ended a period of time during which a sanction has been applied under section 496(f)(2)(B), (C), or (D) (in the case of a second or subsequent such failure), and thereafter preference will be given to individuals who have not previously received a WORK assignment during a period of consecutive months while registered for the WORK program.

"(b) JOB SEARCH; OTHER WORK PREPARATORY ACTIVITIES.—

"(1)(A) JOB SEARCH.—The State plan under this part shall describe any requirements the State applies to individuals registered for and awaiting assignment to a WORK position, including the extent to which the individual must participate in individual or group job search (not to exceed 35 hours per week) and the period for which the job search must continue or the number of contacts that must be made, or such other measure as the State finds appropriate.

"(B) The State agency may require an individual employed in a WORK position or in regular employment to engage in job search but the number of hours per week of required job search (or of the time needed to comply with the job search requirement if measured differently from hours per week) together with the hours per week for which the individual is employed may not exceed 35.

"(C) The State agency shall require each individual who has completed an assignment to perform supervised job search (in accordance with the time limits established under paragraph (1)) while awaiting another assignment.

"(2) OTHER ACTIVITIES.—If the State requires that an individual registered under this part and awaiting assignment to a WORK position engage in any activities in addition to job search that would prepare the individual to carry out successfully the assignment or otherwise support achievement of the purposes of this part, the State plan shall describe those activities and the maximum periods of time for which they may be required (or other measure that the State finds appropriate), which may not exceed 35 hours per week.

"(3) CHILD CARE AND OTHER SUPPORTIVE SERVICES.—(A) The State agency shall notify each individual registered with the WORK program of the availability (under sections 402(g)(1) and (2)) of child care and other supportive services necessary to permit the individual to participate successfully in the WORK program (during both a pre-assignment period and a period of employment under the WORK program).

"(B) A State may, at its option, provide child care and other supportive services (and include an appropriate provision in its plan under this part) to an individual employed in a WORK position to enable or assist such individual also to engage in education or training activities, approved for this purpose by the State agency as likely to enhance such individual's ability to secure and retain permanent, unsubsidized employment, and if the State chooses to provide any one or more such services under this subparagraph, shall notify all registered individuals who are potentially eligible therefor of the availability of such services.

"(c) COMPREHENSIVE POST-ASSIGNMENT ASSESSMENT.—The State agency shall conduct a comprehensive assessment of each individual registered with the WORK program after every second assignment completed by such individual (or of an individual who has been registered for two years). On the basis of this assessment, the State may

"(1) reassign the individual to activities under section 402(a)(19)(D) or to the JOBS program (for such period of training and other activities as may be appropriate), or

"(2) assign the individual to another WORK position if the individual was unable to find unsubsidized employment either because there were no jobs available that such individual had the necessary skills to fill or because such individual is incapable of working outside of a sheltered environment.

Notwithstanding the preceding sentence, in such cases where the State finds that the individual is employable and living in an area where there are jobs available to match the individual's skills, the State may require the individual to engage in intensive job search, supervised by a job developer who may require the individual to apply for appropriate job openings to determine if the individual is making a good faith effort to find unsubsidized employment. An individual who fails without good cause to apply for appropriate job openings, cooperate with the job developer or employer, or accept a private sector job opening, shall be ineligible for aid under part A or an assignment under the State's WORK program for 6 months. Following such a period of ineligibility, the State shall reassess such individual's status, and may take such steps under this subsection as it finds appropriate.

"SEC. 496. FAILURE TO MEET WORK PROGRAM REQUIREMENTS.

"(a) ACTIONS THAT CONSTITUTE FAILURE TO MEET WORK PROGRAM REQUIREMENTS.—The following actions, without good cause, constitute failure by an individual to meet the requirements of the WORK program—

"(1) failing or refusing to accept a bona fide offer of unsubsidized employment of at least 20 hours per week (or less if the offered employment meets the criteria specified in section 482(d)(2));

"(2) failing or refusing to accept or report for a WORK position to which the individual has been assigned;

"(3) voluntarily leaving such a position;

"(4) failing or refusing to engage, to the extent required under the State plan, in the job search or other activities required pursuant to section 495 or subsection (e).

"(b) MISCONDUCT RESULTING IN DISCHARGE FROM WORK POSITION.—In addition to the actions described in subsection (a), a participant will be deemed to have failed to meet the requirements of the WORK program if, prior to the completion of an assignment, such participant is discharged by an employer from a WORK position due to misconduct.

"(c) DEFINITIONS OF GOOD CAUSE AND MISCONDUCT.—The Secretary shall issue regulations establishing criteria for determining what constitutes good cause for purposes of subsections (a) and (g) and misconduct for purposes of subsection (b). Such regulations shall, at a minimum, include—

"(1) with respect to the actions described in paragraph (3) of subsection (a), a requirement that a participant voluntarily leaving a WORK position promptly notify the entity administering the WORK program of the reasons for leaving; and

"(2) with respect to discharge for misconduct, a provision allowing the State, with the approval of the Secretary, to apply the criteria relating to misconduct applicable to the disqualification of an individual for benefits under the State unemployment compensation law.

"(d) OPPORTUNITY FOR HEARING.—The State plan shall provide advance notice to an individual when the State agency determines that a sanction should be imposed, and shall advise the individual of the right to a hearing. The State agency shall provide a hearing, upon request by the individual, in accordance with procedures established by the Secretary (which shall allow the State to adopt procedures followed in hearings on unemployment compensation claims that meet the standards set forth by the United States Supreme Court in *Goldberg* v. *Kelly*, 397 U.S. 254 (1970).).

"(e) INTERIM ACTIVITIES.—The State agency may require, pending the hearing referred to in subsection (d), participation by the individual in appropriate activities under the WORK program.

"(f) SANCTIONS.—If, in accordance with the preceding provisions of the section, an individual is found to have failed without good cause to meet a requirement of the WORK program—

"(1) if the failure involves subsection (a)(1) (relating to an offer of unsubsidized employment), the family of which such individual is a member shall be ineligible for aid to families with dependent children (if any such aid were otherwise payable) for a period of six months and such individual may not be assigned to a WORK position during such period; and

"(2) if the failure involves paragraph (2), (3), or (4), of subsection (a) or involves subsection (b)—

"(A) in connection with the first of any such failures, the amount of aid for which the family (of which such individual is a member) is eligible shall for one month equal one-half of the amount that would be payable to the family if the individual were awaiting assignment to a WORK position, but such reduction shall cease upon the acceptance by such individual of an assignment of a new WORK position or, in cases involving job search or other required activities (as described in subsection (a)(4)), the individual's engaging in the required program activities;

"(B) in connection with the second of any such failures, the amount of aid so payable shall be reduced as described in subparagraph (A) for a 3-month period and the individual may not be assigned during such period to a new WORK position;

"(C) in connection with the third of any such failure, such family shall be ineligible for any such aid for a 3-month period and the individual may not be reassigned during such period; and

"(D) in connection with the fourth or any subsequent such failure, such family shall be ineligible for any such aid for a 6-month period and the individual may not be reassigned during such period;

but during the months in which a sanction is applied under this subsection, the family of which the sanctioned individual is a member shall be considered, for purposes of the State's plan approved under part A, its plan approved under title XIX, to be receiving aid to families with dependent children and for purposes of any other Federal or Federally-assisted program based on need, such family shall be considered to be receiving the amount that would be payable to such family if the individual were awaiting assignment to a WORK position. Notwithstanding the preceding sentence, if at any time an individual subject to a sanction under this subsection accepts an offer of unsubsidized employment in a position that meets the criteria for WORK positions prescribed by section subsection (a)(1), the sanction shall cease at that time and both the individual and the family shall be considered, for purposes of part A, to be an individual and family no longer subject to sanction under this program.

"(g) Notwithstanding section 493, no individual who without good cause leaves an unsubsidized position that provides 20 hours or more per week (or such greater number as the State has elected under section 482(a)(2)(A)(iii)) on the average, may register under section 493(b) for the WORK program (of any State) until after the 3-month period beginning on the date on which the individual left the position.

"(h) EVALUATION FOLLOWING SECOND WORK SANCTION.—The State plan must provide that the State will promptly conduct a thorough evaluation of an individual (and family) against whom a second sanction must be imposed to determine whether there are particular circumstances, not previously recognized by the State agency, that are contributing to the individual's failure to meet the requirements of the WORK program, and to provide, where appropriate, any additional social services, evaluations, or other diagnostic or remedial services or take such other actions as may be necessary to assist the individual and protect the other family members. In conducting the evaluation, the State agency shall consider whether the individual is appropriately registered in the WORK program, or whether the individual should be referred to the State plan approved under part A to be considered an individual to whom section 402(a)(19)(D) applies.".

(b) REQUIREMENT TO PROVIDE SUPPORTIVE SERVICES TO INDIVIDUALS REGISTERED FOR WORK PROGRAM.—Section 402(g)(2) is amended, by striking out "part F" and inserting in lieu thereof "part F or part G".

SEC. 202. FEDERAL FUNDING FOR THE JOBS AND WORK PROGRAMS; PARTICIPATION REQUIREMENTS; MAINTENANCE OF EFFORT AND SUBSTANTIAL IMPLEMENTATION.

(a) AMOUNT OF STATE'S ENTITLEMENT FOR JOBS.—Paragraphs (1) through (4) of section 403(k) of the Act are amended to read as follows:

"(k)(1) In addition to payments under subsection (a), the Secretary shall pay to each State with a plan approved under part F an amount equal to the product of—

"(A) the State's enhanced Federal medical assistance percentage as defined in subsection (m)(6), and

"(B) its expenditures to carry out the program under part F (other than expenditures required by section 402(g)(1)(A) in the case of the 50 States and the District of Columbia),

but payments to a State under this title for any fiscal year for such activities may not exceed the limitation under paragraph (2) with respect to such State.

"(2) The limitation under this paragraph with respect to a State for any fiscal year is the amount that bears the same ratio to the amount specified in paragraph (3) for such fiscal year as the average monthly number of adult recipients (as defined in paragraph (4)) in the State in the preceding fiscal year bears to the average monthly number of such recipients in all the States for such preceding year.

"(3) The amount specified in this paragraph is—

"(A) $1,750,000,000 for fiscal year 1996,

"(B) $1,700,000,000 for fiscal year 1997,

"(C) $1,800,000,000 for fiscal year 1998,

"(D) $1,900,000,000 for each of fiscal years 1999 through 2004, and

"(E) $1,900,000,000, adjusted by the CPI as prescribed by section 406(i), for fiscal year 2005 and each fiscal year thereafter,

reduced by 2 percent (for direct grants to Indian tribes and Alaska Native organizations under section 482(i)), and further reduced by 2 percent (of the amount specified in each subparagraph) (or, in the case of fiscal years after 1998, 1 percent) for carrying out section 404 of the Work and Responsibility Act of 1994 (relating to demonstrations, research and evaluation, and technical assistance) and further reduced in fiscal year 1996 by the amount available to the Secretary for purposes of special adjustments under subsection (p).

"(4) For purposes of this subsection, the term 'adult recipient' in the case of any State means an individual other than a dependent child (unless such child is the custodial parent of another dependent child) whose needs are met in whole or in part with payments of aid to families with dependent children or wages from a position under the WORK program, or a combination of such aid and wages.".

(B) PARTICIPATION STANDARDS FOR JOBS PROGRAM.—Section 403(k) of the Act is further amended by adding at the end thereof the following new paragraphs:

"(6)(A) Notwithstanding any other provision of this subsection—

"(i) if, with respect to a State in a fiscal year, the average monthly number of individuals receiving aid to families with dependent children who are described in subparagraph (B)(i) or (ii) of section 402(a)(19) but are not included in subparagraph (D) thereof who participate in an activity under the JOBS program (including individuals who are employed for the minimum number of hours adopted by the State under section 482(a)(2)(A)(iii) or are being sanctioned pursuant to section 402(a)(19)(G)) exceeds 55 percent of the average monthly number of all such individuals, the Secretary shall pay to such State an additional amount (without the requirement of any additional nonfederal share) for use in carrying out its program under part F, and

"(ii) if, with respect to a State, such average monthly number in such year does not exceed 45 percent, then the Secretary shall reduce by 25 percent the Federal matching rate generally applicable to such State's expenditures for aid for each month in such year with respect to the number of individuals by which the average monthly number is less than 45 percent of the total.

The Secretary shall determine the amount of the additional payments for performance exceeding the standard and shall make such additional payments for a fiscal year by increasing as appropriate the amount payable to such State under subsection (a) up to the amount of the reductions under clause (ii), together with the reductions under subparagraph (C) and subsection (l)(4)(A) for such fiscal year, and if the additional payments exceed such reductions the amount available to the Secretary for such fiscal year under subsection (p) shall be reduced by the amount of such excess.

"(B) The Secretary shall issue regulations prescribing criteria for determining what constitutes participation by an individual for purposes of this section, the periods of time over which participation will be measured, and any other matters necessary to implement the provisions of this subsection or of subsection (l).

"(C) If the average monthly number of individuals in a fiscal year to whom the State applies section 402(a)(19)(D)(vii) exceeds the limit prescribed therein (or such greater limit as the Secretary may have allowed), or if the average monthly number of individuals with respect to whom the State extends the time limit under section 417 exceeds the limit prescribed in section 417(e) (or such greater limit as the Secretary may have allowed), the Secretary shall, notwithstanding any other provision of this section, reduce by 25 percent for each month in such fiscal year the Federal matching rate generally applicable to such State's expenditures for aid with respect to the total number of individuals by which such average monthly numbers exceeds such limits.

"(D) Notwithstanding subparagraph (A)(i), the Federal payment shall not be increased if the Secretary determines that the State has not accurately recorded the number of months for which individuals to whom section 417 applies have received aid, or has not accurately recorded or reported to the Secretary other required data, to an extent inconsistent with standards for accuracy prescribed in regulations by the Secretary.".

(c)(1) AMOUNT OF STATE'S ENTITLEMENT FOR WORK.—Section 403(l) of the Act is amended by striking out paragraphs (1) through (3) and inserting in lieu thereof the following:

"(l)(1) In addition to payments under subsections (a) and (k), the Secretary shall pay to each State with a plan approved under part G an amount to carry out its program under such plan equal to the sum of—

"(A) an amount equal to—

"(i) such State's expenditures to operate its WORK program (other than expenditures to which subparagraph (B) applies and expenditures to which section 402(g)(1)(A) applies in the case of the 50 States and the District of Columbia), multiplied by

"(ii) the State's enhanced Federal medical assistance percentage as defined in subsection (m)(6), but such amount with respect to a State for any fiscal year may not exceed the limitation under paragraph (2) applicable to such State for such fiscal year, and

"(B) an amount equal to—

"(i) the State's expenditures for wages to participants in its program under part G (whether paid directly to the participant, or in the form of wage subsidies to the participant's employer), multiplied by

"(ii) such State's Federal medical assistance percentage, as defined in section 1905(b) (or, where applicable, the last sentence of section 1118).

"(2) The limitation under this paragraph with respect to a State for any fiscal year is the amount that bears the same ratio to the amount specified in paragraph (3) for such

fiscal year as the sum of (i) the average monthly number of individuals subject to the time limit in section 417 (and who are subject to the requirement to participate in the program under part F) in such State, and (ii) the average monthly number of individuals registered in such State's WORK program, bears to the total of such sums of all the states for months in the preceding fiscal year.

"(3) The amount specified in this paragraph is—

"(A) $200,000,000 for fiscal year 1998,

"(B) $700,000,000 for fiscal year 1999,

"(C) $1,100,000,000 for fiscal year 2000,

"(D) $1,300,000,000 for fiscal year 2001,

"(E) $1,400,000,000 for fiscal year 2002,

"(F) $1,600,000,000 for fiscal year 2003,

"(G) $1,700,000,000 for fiscal year 2004, and

"(H) $1,700,000,000 adjusted by the CPI as prescribed by section 406(i), and then multiplied by the WORK program factor, as defined in paragraph (4).

reduced by 2 percent (for direct grants to Indian tribes and Alaska Native organizations under section 482(i)) and further reduce by 2 percent (of the amount specified in each subparagraph) (or in the case of fiscal years after 1998, 1 percent) for carrying out section 404 of the Work and Responsibility Act of 1994 (relating to demonstrations, research and evaluation, and technical assistance).

"(4) For purposes of determining the amount specified in paragraph (3) for any fiscal year, the 'WORK program factor' is the ratio of—

"(i) the sum of the average monthly number of recipients of aid who are individuals described in section 402(a)(19)(B)(i) and WORK registrants (who are not receiving aid) for months in the preceding fiscal year, divided by the sum of the average monthly number of all recipients of such aid and WORK registrants (who are not receiving aid) for months in such preceding fiscal year, to

"(ii) such quotient with respect to the average monthly numbers for months in fiscal year 2004.".

(2) Paragraph (4) of section 403(l) (as in effect prior to enactment of this Act) is redesignated as subsection (k)(7) of section 403.

(d) PARTICIPATION STANDARDS FOR WORK PROGRAM.—Section 403(i) of the Act is further amended by adding at the end thereof the following new paragraphs:

"(4)(A) Notwithstanding any other provision of this paragraph, the Federal matching rate applicable to a State's expenditures for aid to families with dependent children for a fiscal year shall be reduced for each month in such year by 25 percent with respect to the average monthly number of individuals by which such State fails to meet its WORK participation standard for such year.

"(B) For purposes of this paragraph, a State's WORK participation standard is met if—

"(i) the average monthly number of positions to which WORK registrants are assigned is not fewer than the number of such positions that the Secretary requires that the State establish, taking into account the limitation applicable to such State under paragraph (2) for the fiscal year involved, and the amounts of assistance necessary to locate or create WORK positions; or

"(ii) the ratio of—

"(I) the average monthly number of individuals assigned to positions in the WORK program, participating in job search as required by the State plan under part G following an assignment to a WORK position, but for a period of no longer than 3 consecutive months, being sanctioned pursuant to section 496(f) or in unsubsidized employment and not receiving aid (but who at some time within the preceding 3 months were participating in the WORK program), to

"(II) the sum of the average monthly number of individuals registered with the State's WORK program and the average monthly number of individuals in unsubsidized employment and not receiving aid (but who at some time within the preceding 3 months were participating in the State's WORK program), is not less than 0.80.".

(e) PROVISIONS APPLICABLE TO JOBS, WORK, AND CHILD CARE FUNDING.—Section 403(m) of the Act is amended to read as follows:

"(m)(1) If a State so requests, the limitation applicable to such State under subsection (k)(2) for a fiscal year, or the limitation applicable to such State under subsection (l)(2) for such fiscal year, may be increased (and the other limit decreased equally) by an amount up to 10 percent of the sum of such limits for such fiscal year or, if less, by the amount of the limit to be decreased. In the case of fiscal 1997, the State may request that its limit under subsection (k)(2) be reduced by up to 10 percent and the amount made available for preparing to conduct its WORK program.

"(2) If the sum of the amount specified in any fiscal year under subsection (k)(3), and the amount specified for such fiscal year under subsection (l)(3), exceeds (or if the Secretary estimates that it will exceed) the total amount paid (or estimated to be payable) under subsections (k)(1) and (l)(1)(A) for such fiscal year, then the Secretary shall adjust the maximums applicable to payments to those States to which the limits under such subsections have made additional payment unavailable under either subsection (k)(1) or (l)(1)(A), and to which payments for such fiscal year under either or both such subsections would be greater but for the applicability to such States of such limits. The Secretary shall by regulation provide for the equitable adjustment of such limits in the case where all States' requests for adjustment of limits, and additional payments, for a fiscal year under this paragraph exceed the amount available for reallotment.

"(3)(A) If in any fiscal year—

"(i) the average rate of total unemployment in a State for such fiscal year equals or exceeds 6.5 percent, and

"(ii) the average rate of total unemployment in such State for such fiscal year equals or exceeds 110 percent of such rate for either of the two preceding fiscal years, the percent applicable to such State for such fiscal year, for purposes of applying each of subsections (k)(1)(A), (l)(1)(A)(i), and (n)(1)(A), to the extent made possible by the availability of additional amounts to such State pursuant to paragraph (2), shall be applied as if it had been increased by 10 percent of the difference between 100 percent and the rate otherwise applicable in each of such subsections, respectively, from the beginning of such fiscal year (but if no such additional amount is made available, such rates shall be unaffected by this subparagraph).

"(B) The amounts specified in subsections (k)(3), (l)(3), and (n)(3) for any fiscal year are each increased, if, for either the last two quarters of the fiscal year involved (but not such last two quarters), the average rate of total unemployment in the United States equals or exceeds 7 percent, by 2.5 percent plus an additional 0.25 percent for each one-tenth of a percentage point by which the average rate of total unemployment in the United States (for such two-quarter period) exceeds 7 percent.

"(4) Notwithstanding the provisions of subsections (k) and (l), no amount of a State's expenditures as aid to families with dependent children shall be excluded for purposes of payment under subsection (a) by reason of the State's failure to meet the participation standards or the limit on deferrals (under section 402(a)(19)(D)(vii)) or extensions of the time limit (under section 417(e)) applicable to the State's program under part F for months in the first year that such program is in effect, or by reason of the State's failure to meet the participation standard applicable to its program under part G during the first year that such program is in effect.

"(5) Prior to the general effective date of the amendments to part F made by the Work and Responsibility Act of 1994, or the general effective date of part G, as the case may be, the Secretary shall issue regulations containing the necessary information to permit implementation of such standards and application of reductions in Federal payment for failure to meet such standards. Not later than 12 months after such amendments become effective with respect to a State, such State shall be required to begin reporting data as required by the Secretary in order to determine whether the participation standards have been met.

"(6) As used in this part, a 'State's enhanced Federal medical assistance percentage' with respect to expenditures for a fiscal year means such State's Federal medical assistance percentage as defined in section 1905(b) (or, where applicable as defined in the last sentence of section 1118), plus

"(A) 5 percentage points, but not less than 65 percent, with respect to fiscal years 1996 and 1997,

"(B) 7 percentage points, but not less than 67 percent, with respect to fiscal year 1998,

"(C) 9 percentage points, but not less than 69 percent, with respect to fiscal year 1999, and

"(D) 10 percentage points, but not less than 70 percent, with respect to fiscal year 2000, and each fiscal year thereafter.".

(f)(1) Section 402(g)(3)(A)(i) of the Act is amended by striking out "Federal medical assistance percentage (as defined in section 1905(b))" and inserting in lieu thereof "State's enhanced Federal medical assistance percentage (as defined in section 403(m)(6))".

(2) Section 402(g)(B)(A)(ii) of the Act is amended by striking out "Federal medical assistance percentage (as defined in section 1118)" and inserting in lieu thereof "State's enhanced Federal medical assistance percentage (as defined in section 403(m)(6))".

(g) Section 403 of the Act is amended by adding at the end thereof the following new subsection:

"(o) Notwithstanding the preceding provisions of this section, the percentage applicable to a State for purposes of section 402(g)(3)(A) and subsections (k)(1)(A), (l)(1)(A)(ii), and (n)(1)(A) (for determining the Federal payment with respect to a State's JOBS program expenditures, portions of its WORK program expenditures, and its child care expenditures, respectively) shall be the State's Federal medical assistance percentage, but not less than 60 percent (or, in the case of section 402(g)(3)(A) and subsection (n)(1)(A), the State's Federal medical assistance percentage) for any fiscal year—

"(1) in which the nonfederal share of the sum of its expenditures that may be included for purposes of subsection (a)(3) and its expenditures for its program under part F, its program under part G, and child care services under subsections (g) and (i) of section

402 (not included under subsection (a)(3)) is less than the nonfederal share of expenditures for purposes of subsection (a)(3) and of expenditures (for which Federal matching was provided) under its program under part F and child care services (not included under subsection (a)(3)) under subsections (g) and (i) of section 402 for fiscal year 1994 (or fiscal year 1993 if such nonfederal share were greater for such year), or

"(2) in which the number of individuals to whom the provisions of section 417 are being applied is less than 90 percent of the number of individuals in the State who are custodial parents described in subparagraph (B)(i) of section 402(a)(19) (but not included under subparagraph (D) thereof) unless the State has submitted an approvable plan amendment that provides for implementing all statutory requirements to its JOBS program, and meeting related requirements with respect to 90 percent of such individuals within two years of the date such requirements first become effective.".

(h) SECRETARY'S SPECIAL ADJUSTMENT FUND.—Section 403 of the Act is amended by adding at the end thereof the following new subsection:

"(p)(1) There shall be available to the Secretary from the amount appropriated for payments under subsection (k) for States' JOBS programs for fiscal year 1996, $300,000,000 for special adjustments to States' limitations on Federal payments for their JOBS and WORK programs. Amounts made available to the Secretary pursuant to this subsection shall also be available for carrying out subsection (k)(6) and section 404(c).

"(2) A State may, not later than March 1 and September 1 of each fiscal year, submit to the Secretary a request to adjust the limitation on payments under this section with respect to its JOBS (and, in fiscal years after 1997) its WORK programs for the following fiscal year. The Secretary shall only consider such a request from a State which has, or which demonstrates convincingly on the basis of estimates that it will, submit allowable claims for Federal payment in the full amount available to it under subsections (k) and (l) in the current fiscal year and obligated 95% of its full amount in the prior fiscal year. The Secretary shall by regulation prescribe criteria for the equitable allocation among the States of Federal payments pursuant to adjustments of the limitations referred to in the preceding sentence in the case where the requests of all States that the Secretary finds reasonable exceed the amount available, and, within 30 days following the dates specified in this paragraph, will notify each State whether one or more of its limitations will be adjusted in accordance with the State's request and the amount of the adjustment (which may be some or all of the amount requested).

"(3) The Secretary may adjust the limitation on Federal payments to a State for a fiscal year under subsection (k) and under subsection (l), and upon a determination by the Secretary that (and the amount by which) a State's limitation should be raised, the amount specified in either such subsection, or both, shall be considered to be so increased for the following fiscal year.

"(4) The amount made available under subsection (a) for special adjustments shall remain available to the Secretary until expended. That amount shall be reduced by the sum of the adjustments approved by the Secretary in any fiscal year, and the amount shall be increased in a fiscal year by the amount by which all States' limitations under subsection (k), (l), and (n) for a fiscal year exceeded the sum of the Federal payments under such subsections for such fiscal year (after application of subsection (m)(2)), but for fiscal years after 1977, such amount at the end of such fiscal year shall not exceed $400,000,000.".

SEC. 203. ADMINISTRATION OF THE JOBS AND WORK PROGRAMS

(a) STATE OPTION.—Part G of title IV of the Act is amended by adding at the end thereof the following new section:

"ADMINISTRATION

"SEC. 497. (a) The chief executive officer of any State with a plan approved under part A may designate a State agency (hereinafter referred to as the 'JOBS/WORK agency'), other than the agency established or designated under section 402(a)(3) (hereafter referred to as the 'part A agency') to administer (or supervise the administration of) the JOBS program under part F and the WORK program under this part in such State.

"(b) The JOBS/WORK agency designated under this section and the part A agency shall jointly submit the State plan required by parts F and G, and shall enter into and provide to the Secretary an agreement setting out the responsibilities of each agency. Any such agreement shall provide—

"(1) that the part A agency will retain responsibility for—

"(A) determining initial and continuing eligibility of applicants for and recipients of (and the amount of) aid to families with dependent children;

"(B) maintaining accurate records of the number of months for which each individual received aid, and notify individuals of the remaining months of eligibility, in accordance with the preceding provisions of this title;

"(C) applying sanctions when appropriate under the provisions of section 402(a)(19)(G) or 496(f);

"(D) affording an opportunity for a fair hearing as required by section 402(a)(4), or in connection with any disagreement (with adverse consequences) about the application of section 417 (other than matters about which the JOBS/WORK agency provides a hearing);

"(2) that each agency agrees to cooperate with the other in order to exchange all information necessary to carry out the programs involved in a manner that simplifies as much as possible the burden on recipients of aid under part A, and participants in the programs under parts F and G, and allows the most effective administration of all programs involved;

"(3) a specific description of how responsibility will be allocated and coordinated between the two agencies for the following functions:

"(A) determining to which individuals section 402(a)(19)(D) is applicable;

"(B) determining the individuals to whom extensions under section 417(e) are to be granted (and the length of such extensions);

"(C) conducting reviews, and providing dispute resolution measures, including fair hearings in appropriate cases, on disagreements arising out of requirements under the JOBS or WORK program; and

"(4) that the requirements of paragraphs (4), (5), (6), (9), (19), and (21)(A) of section 402(a) will be applicable as appropriate to the joint plan submitted under this section to the same extent (and together with all relevant regulations issued thereunder by the Secretary) as they are to a State plan submitted under part A.

"(c) In each State in which the chief executive officer designates an agency under subsection (a), the Secretary shall make payment to the agency so designated in the case of payments required under subsections (k) and (l) of section 403, rather than to the State's part A agency, and the JOBS/WORK agency so designated shall be responsible for the proper expenditure of such funds.

"(d) Upon designation by the chief executive officer under subsection (a), and approval by the Secretary of the State plan submitted in accordance with this section, all references (whether direct or by context) in this Act to the State agency responsible for the State plan under part A shall be deemed to be references to the agency designated under this section when referring to a function or responsibility of such agency.

"(e) In any State administering a Statewide one-stop career center system for the provision of employment and training services, as defined by the Secretary in conjunction with the Secretary of Labor, the Governor shall ensure that the programs under parts F and G—

"(1) participate in the operation of such system, and

"(2) make employment and training services available to participants through the one-stop career centers.".

SEC. 204. SPECIAL PROVISIONS RELATING TO INDIAN TRIBES AND ALASKA NATIVE ORGANIZATIONS.

(a) AUTHORITY TO ADMINISTER JOBS AND WORKS PROGRAMS.—Section 482(i) of the Act is amended—

(1) by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (6), (7), (8), and (9), respectively, and

(2) by amending paragraphs (1) through (4) of such subsection to read as follows:

"(1)(A) An Indian tribe or Alaska Native organization may apply to the Secretary to conduct both a JOBS program under this part, and a WORK program under part G. An application to conduct these programs in a fiscal year must be submitted not later than July 1 of the preceding fiscal year. Upon approval of the application, payment in the amount determined in accordance with the succeeding provisions of this subsection shall be made directly to the tribe or organization involved.

"(B) Neither the JOBS program nor the WORK program set forth in the application of an Indian tribe or Alaska Native organization submitted under subparagraph (A) need meet any requirement under this part or part G or under section 402(a)(19) that the Secretary determines is inappropriate for such program.

"(C) The JOBS and WORK programs of any Indian tribe or Alaska Native organization may be terminated voluntarily by such tribe or organization or may be terminated by the Secretary upon a finding that such programs are not being conducted in substantial conformity with the terms of the application approved under subparagraph (A). Following voluntary termination of an application, or termination by the Secretary of an application of an Indian tribe or Alaska Native organization, such tribe or organization shall not be eligible to submit a new application under subparagraph (A) with respect to any year before the sixth year following such termination.

"(2) The Secretary shall pay directly to each Indian tribe or Alaska Native organization with an application approved to conduct a JOBS program under this part and a WORK program under part G for a fiscal year an amount (without the requirement of any nonfederal share) which bears the same ratio to 2 percent of the sum of the amounts specified in sections 403(k)(3) and 403(l)(3) for such fiscal year as the adult Indian or Alaska Native population receiving aid to families

with dependent children residing within the area to be served by the tribe or organization bears to the total of such adults receiving such aid residing within all areas which any such tribe or organization could serve. The Secretary shall from time to time review the components of the ratios established under the first sentence of this subparagraph to determine whether the individual payments under this subsection continue to reflect accurately the distribution of population among the grantees, and shall make adjustments necessary to maintain the correct distribution of funding.

"(3) A grantee under this subsection may use up to 20 percent of its payment for the JOBS program, or for the WORK program, as the case may be, for a fiscal year to carry out such program in the following fiscal year, and up to 10 percent of such payment for either such program to carry out the other such program in the fiscal year for which the payment was made.

"(4) At the request of a grantee, the Secretary may approve use of up to 10 percent (or, if less, $5000) of the payment for the JOBS program in connection with an economic development project upon a demonstration by the grantee that such project will include provision for training JOBS program participants in skills necessary for employment on the project.

"(5) An application under this subsection shall provide that (upon approval) the grantee will be responsible for determining whether an individual (within the grantee's service area) to whom the time limits of section 417 apply is one to whom section 402(a)(19)(D) is applicable, and whether (and for how long) extensions of the time limit under section 417 should be provided and for reporting to the State agency making payments of aid to the individuals served by the grantee the determinations made under this paragraph.".

(b) CHILD CARE.—Section 403 is amended by adding after and below subsection (b) the following new subsection:

"(c)(1) Each Indian tribe and Alaska Native organization submitting an application under section 482(i) to administer its JOBS and WORK programs under parts F and G, respectively, may also submit to the Secretary (as a part of the application) a description of the child care needs of its JOBS and WORK program participants, and of the program that it will implement to meet such needs, and request direct funding for the provision of all such child care. The child care program described need not meet any requirement of this part (other than the requirements of section 402(g)(1)(A)(viii)) that the Secretary determines is inappropriate with respect to such child care program.

"(2) The Secretary shall pay to each Indian tribe and each Alaska Native organization whose application approved under section 482(i) includes a request for direct funding for child care an amount (without the requirement of a nonfederal share) to provide child care for recipients of AFDC and for participants in the tribe's or organization's JOB and WORK programs, and to provide transitional child care with respect to an individual who is eligible for child care under section 402(g)(1)(A)(ii). The amount of the payment provided under the preceding sentence for a fiscal year shall not exceed the total amount payable directly to such tribe or organization under section 482(i).

"(3) The provisions of sections 402(g)(1)(A)(i) and (ii) shall not be construed as imposing any obligation upon a State to provide child care for the children of JOBS or WORK program participants included within an approved application under section 482(i) that includes a request for direct funding of child care, during the period for which such direct funding is provided.

"(4) The Secretary shall establish data collection and reporting requirements, and performance standards, with respect to child care programs implemented under this subsection.".

SEC. 205. SPECIAL RULES FOR THE TERRITORIES.

"(a) EXCLUSION FROM GENERAL CEILING OF JOBS, WORK, AND "AT-RISK" CHILD CARE.—Section 1108(a) of the Act is amended by striking out, in the matter preceding paragraph (1), "section 403(k)" and inserting in lieu thereof "subsection (k), (l)(1), or (n) of section 403".

(b) Section 482 of the Act is amended by adding at the end thereof the following new subsection:

"(j) OPTIONS FOR TERRITORIES.—(1) IN GENERAL.—Puerto Rico, the Virgin Islands, Guam, and American Samoa may each determine whether the provisions of section 417 shall be applicable under its State plan approved under part A, and, if so, part G shall be applicable. Each State exercising the option in the preceding sentence shall submit the necessary plan amendments and plans to the Secretary for approval. Any such plan or plan amendment must also describe with respect to such section 417 and part G (and all related amendments) a phase-in strategy and a timetable for achieving full implementation.

"(2) SECRETARIAL WAIVERS.—The Secretary may waive or modify any requirement pertaining to the provisions of section 417, the program required under part G, or the requirements of part A (including participation rates and performance standards) that, as established with reference to the 50 States and the District of Columbia, would be inappropriate for a State to which this subsection applies.

"(3) TERMINATION.—The applicability of section 417 and part G to a State to which this section applies may be terminated voluntarily by such State, but following any such termination, such State shall not be eligible to exercise the option with respect to any year before the sixth year following such termination.".

SEC. 206. TRAINING AND EMPLOYMENT FOR NON-CUSTODIAL PARENTS.

Section 482 of the Act is amended by adding at the end thereof the following new subsection:

"(j) TRAINING AND EMPLOYMENT FOR NON-CUSTODIAL PARENTS.—

"(1) The Secretary shall approve the application of a State to conduct a program of training and employment opportunities for noncustodial parents that meets the requirements of this subsection.

"(2) An application to conduct a program under this subsection shall—

"(A) describe the political subdivision or subdivisions, or other identifiable areas of the State where the program will be conducted,

"(B) describe the services that will be provided to participants, including the training, job readiness services, and employment opportunities that will be available, and indicate whether these will be provided through the program under this part or under part G (or both) or whether some or all of the activities under this subsection will be conducted as a separate program,

"(C) describe the supportive services that will be provided to enhance the participant's involvement in the program and ability to obtain employment and meet his or her child support obligations,

"(D) indicate whether the State will conduct a random assignment evaluation of the effects of the program on improved responsibility in meeting child support obligations, and

"(E) provide assurance that the State's program will comply with the requirements of this subsection.

"(3) The application must provide that a noncustodial parent will be eligible to commence participation in the program under this subsection if his or her child is receiving aid to families with dependent children (or the child's custodial parent is receiving wages in connection with the program under part G), or if the noncustodial parent owes past-due child support which has been assigned to the State agency administering the State plan approved under part A and is unemployed. Paternity must be established before a noncustodial father may enter the program, and the noncustodial parent must be cooperating in the establishment of a child support obligation and the entry of an award. If a parent who has been participating in the program ceases to be eligible therefor because the child with respect to whom the support obligation exists is no longer eligible for aid to families with dependent children (and the custodial parent is not receiving wages in connection with the program under part G), the State must nonetheless allow the participant to complete the training or program activity.

"(4) A State conducting a program under this subsection shall not be required—

"(A) to accept all applicants even though they meet the criteria of paragraph (3), or

"(B) to provide the same training, services, or employment opportunities to all participants,

and the State shall not require—

"(C) that individuals participate in the JOBS program (or in education or training activities comparable or similar to the JOBS program) as a prerequisite to participation in the WORK program (or comparable program of subsidized employment), or

"(D) that the custodial parent of an individual's child be participating in the JOBS program under part F or the WORK program under part G as a condition of such individual's eligibility to participate in the program under this subsection.

"(5) The State agency shall assure that wages will be paid for work performed by the participant and may provide for the payment of training stipends.

"(6)(A) The State agency shall garnish subsidized wages, or any stipends, paid in connection with a non-custodial parent's participation in the program under this subsection, and remit them to the State agency administering the State plan approved under part D for distribution as a child support collection in accordance with the provisions of that part.

"(B) The State may provide, if, with respect to an individual participating in the program under this subsection, it has jurisdiction over the child support obligation being enforced that hours of participation in program activities may, or a reasonable basis, be credited to reduce amounts of past-due child support owed to such State agency by the individual.

"(7)(A) A State with an application approved under this subsection may use, for carrying out the program described in such application in any fiscal year, up to 10 percent of the sum of the amounts available to it for such fiscal year under subsection (k)(2) and (l)(2) of section 403. The State shall be entitled to so much of such amount as equals

the percentage specified in section 403(k)(1)(A) multiplied by its expenditures necessary to carry out its approved applications.

"(B) A State may include, as expenditures necessary to carry out its approved application, amounts expended for stipends, wage subsidies, supportive services, training, and administrative costs of the State agency directly related to the program under this subsection.".

SEC. 207. FEDERAL TAX TREATMENT OF WORK REMUNERATION.

(a) WORK REMUNERATION INELIGIBLE FOR EARNED INCOME TAX CREDIT.—Subparagraph (B) of section 32(c)(2) (defining earned income for purposes of the Earned Income Tax Credit) of the Internal Revenue Code of 1986 is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting in lieu thereof ", and", and by inserting after clause (iii) the following clause:

"(iv) no amount of remuneration received for services provided in WORK position to which the taxpayer was assigned under Part G of title IV of the Social Security Act shall be taken into account.".

(b) WORK REMUNERATION INELIGIBLE FOR TARGETED JOBS TAX CREDIT.—Section 51(b) (defining qualified wages for purposes of the Targeted Jobs Tax Credit) of the Internal Revenue Code of 1986 is amended by inserting after paragraph (3) the following new paragraph (4):

"(4) SPECIAL RULES FOR WORK POSITIONS.—

"(A) QUALIFIED WAGES.—No amount of remuneration received for services provided in a WORK position to which an employee was assigned under Part G of title IV of the Social Security Act shall be treated as qualified wages.

"(B) QUALIFIED FIRST-YEAR WAGES.—The 1-year period described in paragraph (2) is determined without regard to the period in which the employee provided services in a WORK position to which the employee was assigned under Part G of title IV of the Social Security Act.".

(c) WORK REMUNERATION NOT SUBJECT TO FUTA.—Section 3306(b) (defining wages for purposes of the federal unemployment tax) of the Internal Revenue Code of 1986 is amended by striking "or" at the end of paragraph (15), by striking the period at the end of paragraph 16 and inserting in lieu thereof ", or", and by inserting after paragraph (16) the following paragraph:

"(17) remuneration paid for services provided in a WORK position to which the employee was assigned under Part G of title IV of the Social Security Act.".

(d) WORK REMUNERATION EXCLUDED FROM GROSS INCOME.—The Internal Revenue Code of 1986 is amended by redesignating section 137 (containing certain cross references) as section 138, and by inserting after section 136 the following section:

SEC. 137. WORK PROGRAM REMUNERATION.—Gross income shall not include any remuneration received for services provided in a WORK position to which the individual was assigned under Part G of title IV of the Social Security Act.".

TITLE III—CHILD CARE

SEC. 301. CHILD CARE FOR JOBS AND WORK PROGRAM PARTICIPANTS AND AT-RISK FAMILIES.

(a) GUARANTEE WHILE IN WORK OR JOBS PROGRAM.—(1) Section 402(g)(1)(A)(i)(I) of the Act is amended by striking out the semicolon and inserting in lieu thereof "(including employment under part G, or other required activities under such part);".

(2) Section 402(g)(1)(A)(i) of the Act is amended—

(A) by striking out "(including participation in a program that meets the requirements of subsection (a)(19) and part (F))", and

(B) by striking out "approves the activity" and inserting in lieu thereof "approves the activity as part of the individual's employability plan under part F (regardless of whether resources are available to provide other services or pay for other activities to carry out such plan)".

(b) TRANSITIONAL CHILD CARE AFTER LEAVING WORK PROGRAM.—

(1) Section 402(g)(1)(A)(ii) of the Act is amended immediately following "aid to families with dependent children" by inserting "or wages under the program under part G".

(2)(A) Clause (iii) of section 402(g)(1)(A) of the Act is amended by inserting before the period at the end thereof "or wages under part G".

(B) Clause (iv) of such section is amended immediately after "aid to families with dependent children" by inserting "or wages under part G".

(c) HEALTH AND SAFETY STANDARDS; CONTINUITY OF CARE.—(1) FOR RECIPIENTS.—Section 402(g)(1)(A) of the Act is amended by adding at the end thereof the following new subparagraphs:

"(viii) Child care guaranteed under this section, whether provided by a method permitted under subparagraph (B) or by means of an agreement under subsection (j) with the lead agency designated under the Child Care and Development Block Grant Act of 1990 (hereafter referred to as the 'CCDBG Act'), must meet all health and safety standards established by the lead agency (for purposes of the CCDBG Act), and, in addition to any other requirements imposed pursuant to that Act, the State agency must establish immunization requirements and assure (and any such agreement must provide) that, consistent with regulations of the Secretary (I) children whose child care is paid for, in whole or in part, under this subsection will be required to have received all immunizations, at the appropriate times, as currently recommended by the Advisory Committee on Immunization Practices (as advisory committee established by the Secretary, acting through the director of the Centers for Disease Control and Prevention) as specified on the pediatric vaccines list referred to in section 1928(e), and (II) child care providers used will take steps to assure that toxic substances, weapons, and any other items at the location where the child care is provided that could be harmful to young children, will be secured and unobtainable by the children.

"(ix) The State plan must assure that child care provided under this subsection will conform in all ways to the provisions for parental choice, unlimited parental access, handling of parental complaints, and consumer education, as well as to all the other standards, criteria, and requirements applicable to child care provided under the CCDBG Act.

"(x) The State agency may, at its option, provide or authorize the provision of child care under this subsection (and if it exercises this option, shall so advise the lead agency designated under the CCDBG Act, if it has an agreement with such agency under subsection (j)) to a child for such periods of time as are necessary to assure continuity of care even though, for such periods, the individual whose participation in the program under part F or page G or whose employment is enabled by the child care may have temporary interruptions in employment or training.".

(2) FOR AT-RISK FAMILIES.—Section 402(i) of the Act is amended by redesignating paragraphs (5) and (6) as paragraphs (8) and (9), respectively, and by inserting after paragraph (4) the following new paragraphs:

"(5) Child care provided under this subsection, whether provided by a method permitted under paragraph (2) or by means of an agreement under subsection (j) with the lead agency designated under CCDBG Act, must meet all health and safety standards established by the lead agency (for purposes of the CCDGB Act), and, in addition to any other requirements imposed pursuant to that Act, the State agency must establish immunization requirements and assure (and any such agreement must provide) that, consistent with the regulations of the Secretary (i) children whose child care is paid for, in whole or in part under this subsection will be required to have received all immunizations, at the appropriate times, as currently recommended by the Advisory Committee on Immunization Practices (as advisory committee established by the Secretary, acting through the director of the Centers for Disease Control and Prevention) as specified on the pediatric vaccines list referred to in section 1928(e), and (ii) child care providers used will take steps to assure that toxic substances, weapons, and any other items at the location where the child care is provided that could be harmful to young children, will be secured and unobtainable by the children.

"(6) The State plan must assure that child care provided under this subsection will conform in all ways to the provisions for parental choice, unlimited parental access, handling of parental complaints, and consumer education, as well as to all other standards, criteria, and requirements applicable to child care provided under the CCDBG Act.

"(7) The State agency may, at its option, provide or authorize the provision of child care under this subsection (and if it exercises this option, shall so advise the lead agency designated under the CCDBG Act, if it has an agreement with such agency under subsection (j)) to a child for such periods of time as are necessary to assure continuity of care even though, for such periods, the individual whose employment is enabled by the child care may have temporary interruptions in employment.".

SEC. 302. RELATED AMENDMENTS.

(a) CHILD CARE FOR PARTICIPANTS IN THE JOBS OR WORK PROGRAM, AND TRANSITIONAL CHILD CARE.—Section 402(g) of the Act is amended—

(1) by striking out in paragraph (1)(A)(vii), "a sliding scale formula" and all that follows and inserting in lieu thereof "the sliding fee scales established by the lead agency designated under the Child Care and Development Block Grant Act of 1990 as required by section 658E(c)(5) of that Act.";

(2) by amending paragraph (1)(C)(i) by striking out clause (II) and inserting in lieu thereof "an amount not less than the amount provided in the State plan pursuant to this clause for January 1994.";

(3) by amending paragraph (3)(B) by adding "and" after clause (i), striking out "applicable standards" and all that follows in clause (ii) and inserting in lieu thereof "all requirements, standards, and criteria applicable to child care funded under the CCDBG Act.", and by repealing clause (iii); and

(4) by repealing paragraphs (4) and (5).

(b) AT-RISK-CHILD CARE.—Section 402(i) of the Act is amended—

(1) in paragraph (3)(A), by striking out "a sliding scale formula" and all that follows and inserting in lieu thereof "the sliding fee

scales referred to in subsection (g)(1)(A)(vii).";

(2) in paragraph (8)(B) (as redesignated by section 401(c)(2)), by striking out "applicable standards of State and local law;" and inserting in lieu thereof "all requirements, standards, and other criteria applicable to child care funded under the CCDBG Act;

(3) by repealing subparagraphs (C) and (D) of such paragraph (8); and

(4) by amending paragraph (9) (as redesignated) to read as follows:

"(9) In order to facilitate more accurate analysis of the supply and quality of child care resources, the demand for such resources that cannot currently be satisfied, and the effectiveness and relationship of Federal programs providing support for child care and child development activities, the Secretary shall specify by regulation a core set of consistently defined data elements for child care which must be used by each State with respect to all reports relating to child care or child development activities supported in whole or in part under this Act or under the CCDBG Act.".

SEC. 303. LIMITATION OF AT-RISK CHILD CARE TO FAMILIES INELIGIBLE FOR RECIPIENT OR TRANSITIONAL CHILD CARE

Section 402(i)(1)(A) of the Act is amended to read as follows:

"(A) is not eligible for child care under subsection (g);".

SEC. 304. OPTION TO CONSOLIDATE STATE RESPONSIBILITY FOR CHILD CARE.

(a) STATE OPTION.—Section 402 of the Act is amended by adding at the end thereof the following new subsection:

"(j)(1) In order to provide the child care which must be guaranteed pursuant to subsection (g) or which may be furnished pursuant to subsection (i), the State agency may enter into an agreement with the lead agency designated under section 658D of the CCDBG Act under which—

"(A) subject to paragraph (2), the State agency will pay (either in advance or as reimbursement) the lead agency for the cost of providing child care for any child with respect to whom care must be guaranteed under subsection (g) or is to be furnished under subsection (i), and the lead agency agrees that care for all such children will only be paid for from such reimbursement; and

"(B) that (i) all child care provided by the lead agency under the agreement, whether directly or by contractual or other arrangements, will be subject to the same requirements, standards, and other criteria as are applicable to child care funded under the CCDBG Act, and (ii) parents and children to whom such care is provided will be offered all the same protections and procedural safeguards as are applicable to child care furnished under the CCDBG Act.

"(2) LIMITS OF REIMBURSEMENT.—The State agency shall not pay the lead agency for care provided to a child an amount (A) less than the minimum permitted under subsection (g)(1)(C)(i)(II) and specified by the State for fiscal year 1994 in its plan approved under this part nor (B) in excess of the amount described in subsection (g)(1)(C) or (i)(3)(B), whichever may be applicable to the child involved, and, with respect to children to whom subsection (i)(3)(B) applies, the State agency shall be obligated to pay the lead agency for child care furnished in a fiscal year only to the extent of appropriations available for such purpose for such fiscal year.

"(3) SINGLE STATE AGENCY.—Nothing in this subsection shall be construed as precluding the designation of the agency established or designated under section 402(a)(3) as the lead agency for purposes of the CCDBG Act. No agreement shall be necessary in the case where the same agency is designated under both the CCDBG Act and this Act, but the agency shall, as lead agency, comply with all the provisions of this subsection.".

SEC. 305. FUNDING FOR QUALITY IMPROVEMENT AND LICENSING ACTIVITIES BENEFITTING CHILDREN RECEIVING AFDC OR AT-RISK CHILD CARE.

(a)(1) LICENSING AND MONITORING COSTS.—Section 402(g)(3) of the Act is amended by adding at the end thereof the following new subparagraph:

"(C) In determining the amount expended by a State for purposes of section 403(a)(3), the Secretary shall allow the State to include an amount, determined in accordance with a formula prescribed by the Secretary, to reimburse the State for expenditures in connection with licensing, monitoring, and similar activities with respect to child care providers in the State. The formula adopted by the Secretary shall reflect either the number of children for whom child care is reimbursed under section 403(a), the number of child care providers in the State furnishing such child care, or both, and any other factors which the Secretary determines it would be equitable to consider. The total payment to all States pursuant to this subparagraph shall not exceed $15,000,000 for any fiscal year.".

(2) The amendment made by paragraph (1) shall be effective for fiscal years after 1995.

(b) SUPPLY AND QUALITY IMPROVEMENT ACTIVITIES.—Section 402(i) of the Act is amended by redesignating paragraph (9) (as previously redesignated) as paragraph (10) and inserting after and below paragraph (8) the following:

"(9) Of the amount available to a State for any fiscal year under section 403(n), 10 percent of such amount may be paid by the Secretary with respect to expenditures for those activities to improve the quality of child care in the State described in section 458G of the Child Care and Development Block Grant Act (referred to in this subsection as the 'CCDBG' Act) and to increase the availability in low-income communities of child care appropriate for infants and very young children in a variety of settings. Either the State agency administering the plan approved under this part or the lead agency designated under the CCDBG Act may conduct such activities (in which case the State agency shall pay to the lead agency the amount provided by the Secretary for this purpose pursuant to the preceding sentence).".

SEC. 306. FUNDING OF CHILD CARE FOR FAMILIES AT RISK OF WELFARE DEPENDENCY.

(a) FEDERAL FUNDING.—Section 403(n) is amended—

(1) in paragraph (1)(A), by striking out "the Federal medical assistance percentage as defined in section 1905(b))" and inserting in lieu therof "the State's enhanced Federal medical assistance percentage (as defined in subsection (m)(6))"; and

(2) in paragraph (2), by amending subparagraph (B) to read as follows;

"(B) The amount specified in this subparagraph is—

"(i) $300,000,000 for fiscal year 1995,

"(ii) $500,000,000 for fiscal year 1996,

"(iii) $600,000,000 for fiscal year 1997,

"(iv) $700,000,000 for fiscal year 1998, and

"(v) $1,000,000,000 for fiscal year 1999,

"(vi) $1,050,000,000 for fiscal year 2000,

"(vii) $1,100,000,000 for fiscal year 2001,

"(viii) $1,150,000,000 for fiscal year 2002,

"(ix) $1,200,000,000 for fiscal year 2003,

"(x) $1,300,000,000 for fiscal year 2004, and

"(xi) the product of $1,300,000,000 adjusted by the CPI as prescribed in section 406(i) and the ratio of the child population in the United States for the most recent preceding fiscal year for which such data are available, to such population for the second most recent preceding fiscal year,

reduced by 2 percent (or, in the case of fiscal years after 1998, 1 percent) for carrying out section 404 of the Work and Responsibility Act of 1994.".

(b) REALLOTMENT OF AT-RISK CHILD CARE FUNDS.—Section 403(n)(3)(C) of the Act (permitting a one-year carryover by a State of unclaimed Federal funds for at-risk child care) is amended to read as follows:

"(C) If the amount specified in subparagraph (B) for any fiscal year exceeds (or if the Secretary estimates that it will exceed) the total amount paid (or estimated to be payable) under paragraph (1) for such fiscal year, then the Secretary shall provide additional payments to States whose expenditures pursuant to section 402(i) for such year exceed their limitation on Federal payment under paragraph (2). The Secretary shall by regulation provide for the equitable reallotment of any amounts available in the case where all States' claims for a fiscal year under this subparagraph exceed the amount available for reallotment.".

SEC. 307. SUPPLEMENT TO INCOME DISREGARD.

(a) REQUIREMENT.—Section 402(g)(1)(B) of the Act is amended by adding at the end thereof the following new sentence: "If the State agency guarantees child care by applying the income disregard provision in subsection (a)(8)(A)(iii) in determining the amount of aid to be paid for a month, the State agency shall offer the caretaker relative the option of receiving care under another arrangement pursuant to this subparagraph, or, alternatively, the State agency shall reimburse the caretaker relative for expenditures for child care for such month in an amount equal to the excess of such expenditures (or, if less, the maximum amount that may be paid for the type of child care involved, as determined under subparagraph (C)) over the amount that is disregarded under such subsection.".

(b) NOTICE.—Section 402(g)(1)(A)(i) of the Act is amended by striking out the period at the end and inserting in lieu thereof a semicolon and adding after and below clause (II) the following:

"and if the State agency applies the income disregard provision in subsection (a)(8)(A)(iii) without reimbursement under subparagraph (B) for any additional cost, it shall advise each such family that they also have the option to have the State agency provide child care under another arrangement pursuant to subparagraph (B).".

TITLE IV—PROVISIONS WITH MULTI-PROGRAM APPLICABILITY

SEC. 401. PERFORMANCE STANDARDS.

Section 487 of the Act is amended to read as follows:

"SEC. 487. PERFORMANCE STANDARDS.

"(a) DEVELOPMENT OF FACTORS TO BE MEASURED.—In order to specify a set of outcome-based performance measures to which the Secretary can thereafter apply standards of achievement to define successful State JOBS and WORK programs (with appropriate variations in the factors to be measured, and the standards applied, among the States and for programs directly administered by Indian tribes or Alaska Native organizations), the

Secretary shall develop recommendations for factors to be measured in assessing such programs, together with specific elements to be examined and the methodology for collecting the necessary data. Factors to be recommended shall include the percentage of a State's AFDC caseload subject to the time limits in section 417 who receive aid for 24 cumulative months and may include factors such as those considered under section 106 of the Job Training Partnership Act, as well as—

"(1) the increase in employment and level of earnings of program participants after leaving the JOBS and WORK programs,

"(2) the retention of program participants for significant periods of time in unsubsidized employment,

"(3) the decrease in the rate of dependency on welfare of participants' families,

"(4) the improvement in the long-term economic well-being of families with children with a family member who previously participated in one or both such programs, and

"(5) such other factors as the Secretary finds appropriate.

The Secretary shall solicit views on the recommendations from the Secretary of Labor, the Secretary of Education, and other Federal, State, and local officials (and representatives of associations of such officials) from both the executive and the legislative branches of government, and from other individuals and organizations with expertise in the fields of social welfare, education and training programs for children and adults, employment-related programs and social and supportive services related to these areas, as well as from community-based organizations and former and current program participants. Based upon the consultations and consideration of the views provided regarding the recommended factors, the Secretary shall, not later than October 1, 1996, publish in the Federal Register the factors to be measured in assessing States' performance in administering the programs established under parts F and G.

"(b) DEVELOPMENT OF PERFORMANCE STANDARDS.—(1) RECOMMENDATIONS.—In order to set standards of achievement to be applied to each of the factors to be measured as defined in accordance with subsection (a), the Secretary shall, not later than April 1, 1998, develop recommended standards to be applied to each of the factors. Views on these recommended standards shall be solicited from officials, organizations, and individuals broadly representative of the groups described in subsection (a). Based upon the consultations and consideration of the comments received from these sources, the Secretary shall, not later than October 1, 1998, publish in the Federal Register the standards to be applied to the measurement factors.

"(2) REQUIREMENTS.—The performance standards described in paragraph (1) shall include provisions governing cost-effective methods for obtaining such data as are necessary to carry out this section which, notwithstanding any other provision of law, may include access to earnings records, State employment security records, records collected under the Federal Insurance Contributions Act (chapter 21 of the Internal Revenue Code of 1986), State aid to families with dependent children records, and the use of statistical sampling techniques, and similar records or measures, with appropriate safeguards to protect the confidentiality of the information obtained.

"(c) INCENTIVES AND PENALTIES.—The Secretary shall recommend and, not later than October 1, 1998, issue regulations prescribing incentives for States meeting or exceeding the performance standards adopted pursuant to subsection (b), and penalties for States failing to meet such standards. In developing such regulations, the Secretary shall study and consider the relationship between penalties and incentives as a means of achieving the proposed standards. The Secretary will consider whether the penalties and incentives set are sufficient to insure that a State which incurs the costs necessary to obtain the desired outcomes is financially better off than one that does not. Such regulations shall also include provisions for delay of any penalty when the Secretary finds it appropriate to afford a State sufficient time to develop and (with the Secretary's approval) implement a corrective action plan which, if successful, will obviate the application of a penalty, and provision for furnishing technical assistance to any State in order to improve its program and avoid the application of a penalty.

"(d) The Secretary shall, from time to time, and in consultation with officials, organizations, and individuals broadly representative of the groups referred to in subsection (a), review and, if appropriate, propose modifications to the factors to be measured, the standards of performance, or the incentives and penalties, and after opportunity for review and comment, modify any one or more of such items.

"(e) The Secretary shall on an annual basis make public the level of performance achieved by each State as compared to the applicable standard.

"(f)(1) Each State with a plan approved under this part shall collect and furnish such data as the Secretary may require to assist in the development of the factors to measure performance (pursuant to subsection (a)) and the development of standards to be applied to those factors (pursuant to subsection (b)).

"(2) Each State with a plan approved under this part shall establish methods to solicit, on a regular and ongoing basis, the views of participants in the program under this part, and in the WORK program under part G, and of employers of participants from both programs, on the quality and effectiveness of the services provided under the program. Participants and employers may provide either oral or written views, and the State should use a range of methods to obtain such views, including written questionnaires and group interviews and discussions. The information obtained from participants and employers shall be analyzed by the State and a summary of the information, together with the State's analysis, made available for use in improving the administration of the JOBS and WORK programs.

SEC. 402. AFDC QUALITY CONTROL SYSTEM AMENDMENTS.

(a) EXPANDED PURPOSE.—Section 408(a) of the Act is amended to read as follows:

"(a) IN GENERAL.—In order (1) to improve the accuracy of payments of aid to families with dependent children, and wages under the WORK program under part G, to assess the accuracy of State reported data relating to its JOBS and WORK programs and to its implementation of the time limits established by section 417, (2) to determine the number of individuals to whom the State found applicable section 402(a)(19)(D) (by each of the categories enumerated within such section) and the number of individuals with respect to whom an extension of the time limit under section 417 was provided (by each of the categories enumerated within section 417(e)), (3) to determine whether participation standards under section 403 have been met, (4) to assess the effectiveness of the State's program by applying the performance standards developed under section 487, and (5) to serve such other purposes as the Secretary finds appropriate for a performance measurement system, the Secretary shall establish and operate a quality control system to secure the accurate data needed to measure performance, identify areas in which corrective action is necessary, and determine the amount (if any) of the disallowance required to be repaid to the Secretary because of erroneous payments of aid made by the State, or its failure to meet such participation or performance standards.".

(b) ADDITIONAL DATA REQUIRED TO BE SAMPLED.—Section 408(h) of the Act is amended—

(1) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively,

(2) by adding after and below paragraph (1) the following new paragraph:

"(2) payments of aid that will be considered, for purposes of this section, to be erroneous payments because of a State's exceeding the limits specified in section 402(a)(19)(D) or 417(e), and the State's failure to achieve the participation rates specified in section 403, or to meet the performance standards developed pursuant to section 487, and the additional data elements to be included in a sample (and whether as part of the sample review under subsection (b) or separately) in order to determine whether such participation rates have been achieved, and the extent to which the State has met such performance standards;"; and

(3) by amending paragraph (3) (as redesignated) by inserting before the semicolon "and matters relating to the size and selection of samples and relating to the methodology for making statistically valid estimates of the State's compliance with the limits referred to in paragraph (2) and its achievement of participation rates and performance (measured against such standards) achieved by the State".

(c) STATE STUDIES.—Section 408(h) is amended by adding at the end thereof the following new sentence: "Expenditures by a State to conduct studies approved by the Secretary to test and improve its quality control system, and adapt it to the full range of purposes described in subsection (a) shall, notwithstanding any other provision of law, be considered for purposes of section 403(a)(3) to be necessary for the proper and efficient administration of the State's plan approved under this part.".

(d) CONFORMING AMENDMENT.—Section 408(b)(5) of the Act is amended—

(1) in subparagraph (A), by striking out "subsection (h)(3)" and inserting in lieu thereof "subsection (h)(4)", and

(2) in subparagraph (B), by striking out "subsection (h)(4)" and inserting in lieu thereof "subsection (h)(5)".

(e) CONSULTATION.—The Secretary of Health and Human Services shall consult with the State agencies administering programs under parts A, F, and G of title IV of the Act, and with others knowledgeable about design and administration of quality control systems and performance measurements systems, and thereafter, but not later than April 1, 1995, report to the Congress and publish in the Federal Register the proposed rules necessary to effectuate the amendments to section 408 of the Act made by this section.

SEC. 403. NATIONAL WELFARE RECEIPT REGISTRY; STATE INFORMATION SYSTEMS

(a) FEDERAL RESPONSIBILITIES.—Part A of title IV of the Act is amended by adding after section 410 the following new section:

"NATIONAL WELFARE RECEIPT REGISTRY

"SEC. 411. (a) ESTABLISHMENT.—In order to assist States in administering their State plans approved under this part, part F, and part G, the Secretary shall establish and maintain an automated registry, to be known as the National Welfare Receipt Registry, containing information reported by each State agency administering a plan approved under this part concerning individuals receiving (or who have received) aid to families with dependent children or wages under a State's WORK program under part G.

"(b) INFORMATION TO BE MAINTAINED.—There shall be maintained in the Registry, at a minimum, the following information with respect to each individual in the family who has received aid to families with dependent children:

"(1) the individual's name, date of birth, and social security account number;

"(2) the months for which aid was provided (with respect to such individual), including months in which no aid was paid with respect to such individual because a sanction was being applied pursuant to section 402(a)(19)(G), section 402(a)(26), or section 496(f);

"(3) months in which section 402(a)(19)(D) was applicable to the individual;

"(4) months during which an extension under section 417 (e) was provided with respect to an individual;

"(5) months in which an individual was registered with the State's WORK program under part G and months in which the individual was assigned to a position under part G; and

"(6) such other information as the Secretary may determine would assist in the administration of the programs involved, including the performance measurement of one or more of such programs.

"(c) USE OF INFORMATION.—(1) TO WHOM PROVIDED.—The Secretary shall promptly respond to requests by a State agency administering a plan approved under this part for information with respect to one or more individuals, identified by name and social security number. The Secretary shall furnish such information electronically, and if such an individual has previously received (or is receiving) aid to families with dependent children, or was registered under a program pursuant to part G, identify the State making payment of aid or administering the program under part G for each month involved or indicate that the requested information is not in the Registry.

"(2) REGULATIONS.—The Secretary shall prescribe rules pertaining to—

"(A) the format in which and process by which States must submit the information maintained under subsection (b);

"(B) the format in which and process by which States must submit requests (and responses will be furnished to such requests) for information under this subsection;

"(C) the safeguards that the State must adopt to assure that requests are submitted, and responses received, only by personnel authorized by the State agency to perform these functions; and

"(D) steps that the State must take to safeguard any information received from the Registry, and assure that it will not be redisclosed except to the extent permitted under section 402(a)(9) or under this section.

The Secretary shall take into consideration in developing and issuing rules under this subsection the varying levels of capability among the States to monitor, provide, and receive by electronic means the information to be maintained in the Registry, and shall allow in such rules a State to adopt alternatives to the generally applicable requirements if the State demonstrates that its alternative will be effective in reporting, receiving and using the information to be maintained in the Registry and the State has in effect an advance planning document approved under section 402(e).

"(d) The Secretary shall not be liable to either a State or an individual for inaccurate information provided to the Registry by one State and reported by the Secretary to a second State.

"(e) The Secretary may disclose information in the Registry, in addition to disclosure to States for the purposes described above, only—

"(1) to the Social Security Administration in order to verify the accuracy of, and as necessary to correct, the social security account numbers of individuals about whom information has been reported, and for use by the Social Security Administration in determining the accuracy of payments under the Supplemental Security Income program under title XVI, or for use in connection with benefits under title II, as may be relevant,

"(2) to the Internal Revenue Service for purposes directly connected with the administration of the earned income tax credit under section 32 of the Internal Revenue Code of 1986, or the advance payment of such credit under section 3507 of such Code or for verification of a dependency exemption claim in an individual's tax return or in connection with the dependent care tax credit,

"(3) to the Secretary of Labor (or the State agency administering the State's program under title III of the Act) for purposes directly connected with the administration of the unemployment compensation program under title III (or under a State law with respect to which the Secretary of Labor certifies payment under such title), and

"(4) for research purposes found by the Secretary to be likely to contribute to achieving the purposes of this part or part F or G, but without personal identifiers.

"(f) There are authorized to be appropriated to establish the National Welfare Receipt Registry, $6,000,000 for fiscal year 1995, and to operate the Registry, $4,000,000 for each of fiscal years 1996 through 1999.".

(b) STATE RESPONSIBILITIES.—Section 402(a) of the Act is amended by adding after paragraph (28) the following new paragraph:

"(29) provide—

"(A) that information will be reported to the National Welfare Receipt Registry, at such times, in such format and by such process as the Secretary shall prescribe pursuant to section 411;

"(B) that the State agency will request from such Registry, and from the other Registries maintained as part of the National Welfare Reform Information Clearinghouse established pursuant to section 453A, in such manner as the Secretary may prescribe, and will use all information that would facilitate the proper and efficient operation of the State's programs under this part and parts F and G, and

"(C) that the State agency will cooperate with any other State agency administering or supervising the administration of a plan approved under this part in order to resolve any disagreement between an individual seeking aid under such a plan (or seeking to participate in a program under part G) and the State about the correctness of information it reported to the Registry and report to the Registry any corrections to be made in the data contained in the Registry;".

(c) STATE AUTOMATED INFORMATION SYSTEM.—Section 402(a)(30) of the Act is amended to read as follows:

"(30)(A) provide for an automated system which manages, monitors, and reports the information in paragraph (29) efficiently and economically, and for security against unauthorized access to, or use of, the data in such system; and

"(B) at the option of the State, provide for the establishment and operation, in accordance with an (initial and annually updated) advance planning document approved under subsection (e), of a statewide automated information system to assist in the administration of the State plan approved under this part through automated procedures and processes in any one or more of the following areas—

"(i) to assist in performing intake and referral functions;

"(ii) to assist in providing the child care services required under subsection (g)(1), and available under subsection (i), and coordinating the provision of such services with those provided in the State under the Child Care and Development Block Grant Act, in an efficient manner that eliminates (or at least minimizes) the disruption of service to children and families and assists the State in monitoring the quality, cost, and delivery of such services; or

"(iii) to assist in the administration of the State's plan approved under part F, including monitoring the delivery of employment and training services and related support services, and to manage the information necessary to administer and assess its programs under parts F and G;

and to provide for security against unauthorized access to, or use of, the data in such system and, if the State elects to implement any such automated system, may also develop and implement a system (or, if more cost-effective, enhance an existing system) for determining eligibility for any payment amount of aid under this part;".

(d) DEVELOPMENT OF MODEL AUTOMATED INFORMATION MANAGEMENT SYSTEMS.—Section 413 of the Act (including its heading) is amended to read as follows:

"MODEL AUTOMATED INFORMATION MANAGEMENT SYSTEMS

"SEC. 413. (a)(1) The Secretary shall, in partnership with States, design and develop model automated support and case management systems to assist States in the operation, managing, tracking, and reporting in each of the program areas described in section 402(a)(30)(A) and clauses (i), (ii), and (iii) of section 402(a)(30)(B), and thereafter provide necessary technical assistance to States choosing to adopt such model.

"(2) Two or more States may determine to collaborate in developing model automated support and case management systems to assist them in operating, managing, tracking, and reporting in each of the program areas described in section 402(a)(30) and, in such case, the Secretary shall provide all appropriate technical assistance, and otherwise cooperate with the States' collaboration to develop systems that meet all the requirements of this part.

"(b) The model system developed by the Secretary under subsection (a)(1), or the system developed collaboratively by States under subsection (a)(2), must meet the following criteria:

"(1) with respect to payment of aid under the State's plan approved under this part, the system must be capable of assisting in performing the intake and federal function;

"(2) with respect to the State's child care programs under this part, as well as under the CCDBG Act, the system must be capable of assisting in—

"(A) identifying and establishing the eligibility of families with children in need of child care, and determining the appropriate program under which to pay for such care;

"(B) determining the continuing eligibility of such families for such care, and planning for and monitoring services provided to such families;

"(C) processing payments and other financial data needed for the management of the child care programs, and

"(D) producing necessary management reports for the efficient and effective administration of the child care programs, including the generating of required financial and statistical reports;

"(3) with respect to the State's JOBS and WORK programs under parts F and G respectively, the system must be capable of assisting in—

"(A) assessing a participant's service needs in relation to stated goals,

"(B) developing an appropriate employability plan, and

"(C) monitoring and recording the individual's attendance at or participation in all required program activities.

In the case of each of the State's systems described in paragraphs (1), (2), and (3), the system must also be capable of exchanging data electronically with related Federal electronic data systems and other such systems of the State, and providing such other information necessary to assess the State's program performance against the standards established by the Secretary under section 487.

"(c) There are authorized to be appropriated to carry out subsection (a), $7,500,000 for each of fiscal years 1995 and 1996.

"(d)(1) In addition to the technical assistance required in connection with the model systems described in subsection (a)(1), the Secretary shall provide for such training, and furnish such technical assistance as may be appropriate to enable States to develop and implement automated management systems as promptly and in as cost-effective a manner as possible.

"(2) There are authorized to be appropriated $1,000,000 for each fiscal years 1995 through 1999 to carry out this subsection.".

(e) ENHANCED MATCHING.—Section 403(a) of the Act is amended—

(1) by redesignating paragraph (3) as paragraph (3)(A) and striking out "and" at the end thereof, and

(2) by adding after and below such paragraph the following:

"(B) if the Secretary determines that the modification of a State's system that meets the requirements of section 402(a)(3)(A) will be cost-effective, or that a State's automated management information system uses any one or more of the Secretary's models developed under section 413(a)(1), or is based on a State collaboration under section 413(a)(2), Federal payments with respect to such systems shall equal 80 percent (or, if greater, the State's enhanced Federal medical assistance percentage, as defined in subsection (m)(6)) of a State's expenditures under its approved advance planning document for the cost of developing and implementing any such system collaborative project; and

"(C) notwithstanding any other provision of this section, the total amount payable by the Secretary with respect to expenditures, (during the five-year period) to which subparagraph (B) applies shall not exceed $800,000,000 to be distributed among the States, and to make available at such time or times over the five-year period, as is provided in regulations issued by the Secretary, taking into account the relative size of State caseloads and the levels of automation needed to meet the requirements of this title, and payments under subparagraph (B) shall be made at such times and in such manner as provided in subsection (b) and the advance planning document approved under section 402(e).", and

(3) by striking out "section 403(a)(3)" in subparagraph (C) of section 402(g)(3) of this Act, as added by section 305(a)(1) of this Act, and inserting in lieu thereof "section 403(a)(3)(A)".

(d)(1) REVISION OF ADVANCE PLANNING DOCUMENT REQUIREMENT.—Section 402(e) of the Act is amended to read as follows:

"(e)(1) The Secretary shall not approve the Advance Data Planning document referred to in subsection (a)(30), unless such document, when implemented, will economically, efficiently, and effectively carry out the objectives of the automated, statewide, management information systems referred to in such subsection, and such document provides a plan to address the State's approach, schedule, needed resources, and cost-benefit of the project.

"(2) The Secretary shall, on a continuing basis, review, access, and inspect the planning, design, and operation of the statewide management information systems approved under subsection 403(a)(3)(B), to determine whether, and to what extent, such systems meet and will continue to meet requirements imposed under this part.".

SEC. 404. RESEARCH AND EVALUATION; TECHNICAL ASSISTANCE; DEMONSTRATION PROJECTS.

(a) FUNDING.—There shall be available to the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") for carrying out the projects and other activities specified in this section, and other such activities related to the provisions of this Act, in a fiscal year an amount equal to 2 percent (or, in the case of fiscal years after 1998, 1 percent) of the sum of the amounts specified in subsections (k)(3), (l)(3), and (n)(2)(B) of section 403 of the Social Security Act for such fiscal year.

(b) RESEARCH AND EVALUATION.—In addition to any other research and evaluation found appropriate by the Secretary pertaining to the new programs and amendments to existing programs added to the Social Security Act by the provisions of this Act, the Secretary shall, in consultation with the Secretary of Labor and the Secretary of Education conduct, in accordance with scientifically-acceptable methodology, the following studies of the time-limited program of assistance together with training and preparation for employment, followed by a program of required employment or employment-related activities:

(1) a two-phase implementation study of—

(A) the initial steps taken by States and political subdivisions to implement the new programs and requirements established by the amendments made by this Act, as well as the obstacles faced, institutional arrangements entered into, and recommendations of such States and political subdivisions based on their experiences, and thereafter

(B) the experiences of States and localities after the new programs and requirements have been substantially implemented, including a study of the program design, services provided, funding levels, participation rates, and recommendations of the administering agencies, and a review of the impact of these new programs and requirements on the State and local administration of the programs, including management systems, staffing structures, and the culture of the welfare programs;

(2) an evaluation in a variety of States and localities, using random assignment of individuals to treatment and control groups, and other appropriate rigorous methods, to examine the effectiveness of time-limited assistance in helping participants achieve self-sufficiency, and the corresponding effect on unemployment rates, reduction of welfare dependency and teen pregnancy, the effects on income levels, family structure, and children's well-being among participant groups; and

(3) together with the Secretary of Labor, a comprehensive national study after the WORK program (under part G of title IV of the Act) has been in effect for 2 years to measure the program's success in assisting participants to obtain unsubsidized employment, and to evaluate skill levels and barriers to employment in the case of individuals who have not, after participating in such program for 2 years, been able to obtain unsubsidized employment.

(c) TECHNICAL ASSISTANCE.—In addition to any other specific authorization in the Social Security Act for technical assistance, the Secretary is authorized to offer a broad range of technical assistance to States (including Indian tribes and Alaska Native organizations) and territories, including training, consultations, and fostering the exchange of information among States and others about practices, strategies, and techniques that are proving effective.

(d) PLACEMENT DEMONSTRATION PROJECTS.—The Secretary is authorized to approve up to 10 demonstrations of innovative techniques to increase the number of placements of participants in the JOBS program (under part F of title IV of the Social Security Act) in positions of unsubsidized employment with significant retention rates. No more than 5 such demonstrations shall test the use by the State of a private organization, pursuant to a contractual arrangement under which the organization will place JOBS program participants in employment, and no more than 5 such demonstrations shall involve the use of placement bonuses payable to State or local agency employees who effectuate successful placements. All the projects shall specify performance standards (based on placement and retention rates) to measure successful performance, and, in the case of projects involving the use of private agencies, shall also specify the services that must be made available to clients, both before and after the placement, and indicate whether the organization will also serve participants in the State's WORK program (under part G of title IV of the Social Security Act.)

(e) WORK-FOR-WAGES DEMONSTRATION PROJECTS.—The Secretary is authorized to approve up to 5 local demonstration projects to test the development, implementation, and effectiveness of WORK programs conducted outside the context of the State's AFDC program. Any project approved under this subsection must include the following elements:

(1) the State agency administering the State's AFDC program (under part A of title IV of the Social Security Act) must close the case when an individual to whom section 417

applies (as added by section 104 of this Act) reaches the time limit specified in such section;

(2) each individual involved in the demonstration must be advised of the procedures that must be followed to apply for the WORK-for-Wages Project, and may not be denied an opportunity to participate if such individual would be eligible to participate in the State's WORK program under part G of such title;

(3) each individual will be afforded the opportunity to earn wages in a position of employment and WORK stipends if necessary to provide at least the income level of the State's AFDC program (after application of the $120 per month earned income disregard for work expenses) in the case of a similarly situated family (and States conducting projects will be encouraged to standardize, to the extent consistent with the preceding provisions of this paragraph, the amount of the stipends), but no payment of either wages or the stipend will occur unless the individual has worked or participated in an alternative project-specified activity such as job search, interim community service, or other activity designed by the project; and

(4) those elements of the WORK program under part G of title IV of the Act which this Secretary determines are essential to achieve its objectives, while protecting the interests of participants in the program and others involved in or affected by the project, will be retained and applied in the project.

(f) WORK SUPPORT AGENCY DEMONSTRATIONS.—The Secretary is authorized, in consultation with the Secretary of Labor, the Secretary of Agriculture, and the Secretary of the Treasury, to approve demonstration projects in up to 5 States, under which the State establishes a Work Support Agency to provide a broad and coordinated array of services and assistance to individuals who are former recipients of aid to families with dependent children to assist them in retaining unsubsidized employment. Services may include assistance in obtaining other benefits or payments for which the individual is still eligible, assistance in dealing with short-term family problems which could otherwise jeopardize continuation of the employment relationship, short-term or one-time financial aid to meet unusual employment-related needs and any other aid or services that support the individual's ability to retain or, where necessary, secure employment.

(g) DEMONSTRATION PROJECTS FOR NONCUSTODIAL PARENTS.—In order to encourage the development of innovative parenting programs for noncustodial parents that build upon existing programs for high-risk families, such as the Head Start program, the Healthy Start program, the Even Start program, and the Family Preservation and Support program, the Secretary is authorized to make grants to States, Indian tribes and Alaska Native organizations, or community-based organizations to conduct demonstration projects designed to improve the parenting skills of noncustodial parents with particular emphasis on matters such as the importance of parental involvement and economic security in the healthy development of children. The applicant shall describe the services to be provided, and the way in which project services will be coordinated with one or more of the programs or initiates referred to in the preceding sentence.

(h) The Secretary shall, with respect to all demonstrations authorized under this section, prescribe—

(1) the minimum length of such projects in order to assure the value of the project,

(2) the assignment techniques and other requirements for the methodologies so that the results will be scientifically acceptable,

(3) the required financial contribution by the project applicant,

(4) types of expenditures that may be included under the project,

(5) the timing and nature of required reports and the procedures to be followed in conducting the evaluation and review of project results, and

(6) any other rules that the Secretary finds appropriate to assure the integrity of the demonstration, and to protect the rights and interests of program participants who are assigned to the demonstration.

SEC. 405. OFFSETS TO MANDATORY SPENDING FROM REDUCED FRAUD, WASTE, AND ABUSE.

(a) CERTIFICATIONS.—In order to assure achievement of the reductions in mandatory spending assumed in the cost estimates accompanying this Act, beginning in fiscal year 1998, and each of the five succeeding fiscal years is—

(1) the Secretary of Health and Human Services shall certify to the Director of the Office of Management and Budget that each of the systems of data bases included in the National Welfare Reform Information Clearinghouse established by Section 453A of the Social Security Act, (as added by section 625 of this Act) are both receiving data from and providing data to State and Federal agencies, and otherwise fully complying with all requirements imposed by or pursuant to the provisions of the Social Security Act establishing, and requiring use of the components, of the Clearinghouse, and

(2) the Director of the Office of Management and Budget shall determine whether, and if so certify that, all such data were used fully and by the Federal agencies to which it was supplied in order to reduce fraud, waste, and abuse in the programs it administers and in compliance with the requirements imposed by or pursuant to the Social Security Act and subsection (d).

(b) ALTERNATIVE REDUCTIONS IN MANDATORY SPENDING.—If the Director of the Office of Management and Budget, after consultation with the Secretary of Health and Human Services, certifies, prior to the close of a fiscal year, as provided in subsection (a)(2), that, notwithstanding the full use of data as described in subsection (a) and States' implementation of applicable requirements of the Social Security Act, mandatory spending was not reduced (when compared to the levels estimated had the Clearinghouse not been established and used) by the amount projected in the cost estimates, then in the succeeding fiscal year the following reductions in spending shall occur, in the sequence stated, to the extent necessary to reduce mandatory spending by the difference between the amount that it was estimated would be saved (or avoided) in the year (in which the certifications are made) and the amount certified by the Director as having been saved (or avoided):

(1) the amount made available to the Secretary of Health and Human Services under section 404(a) of this Act for research, demonstrations, and technical assistance, and the amount available under section 452(j) of the Social Security Act (as added by section 616 of this Act) for technical assistance to States with respect to child support enforcement programs (each such amount being reduced proportionately); and, if necessary,

(2) amounts otherwise payable under section 403(a)(3) of the Social Security Act (as amended by this Act) to States which have not fully implemented all the requirements imposed by or pursuant to the Social Security Act for full use of the data available from any part of the National Welfare Reform Information Clearinghouse shall be reduced by 3 percent (or such lesser amount as is necessary to achieve the necessary reductions in mandatory spending).

(c) RELATED AMENDMENTS.—Section 1137(a)(2) of the Act is amended by striking out "such Code," and inserting in lieu thereof "such Code, and information available from any Registry maintained under the National Welfare Reform Information Clearinghouse established under section 453(A) (or, prior to the full establishment and operation of the Director of New Hires, from systems of similar information maintained by any other State, where cost-effective),".

(d) The Social Security Administration and the Secretary of the Treasury shall each request and fully use all information in the registries maintained under the National Welfare Reform Information Clearinghouse established under Section 453A of the Social Security Act to the extent that such information may be useful in carrying out their statutory responsibilities and reducing fraud, waste, and abuse.

TITLE V—PREVENTION OF DEPENDENCY

SEC. 501. SUPERVISED LIVING ARRANGEMENTS FOR MINORS.

(1) Section 402(a)(43) of the Act is amended by striking out "at the option of the State,".

(2) Such section is further amended in subparagraph (A)(i) by striking out ", or reside in a foster home" and all that follows down to the semicolon.

(3) Such section is further amended—

(A) by amending so much of subparagraph (B) as precedes clause (i) to read "(B) in the case where—",

(B) by striking out the semicolon at the end of each numbered clause in such subparagraph and inserting in lieu thereof a comma, and

(C) by adding after and below clause (v) of such subparagraph the following:

"subparagraph (A) shall not be applicable, but the State agency shall assist the individual in locating an appropriate adult-supervised supportive living arrangement taking into consideration the needs and concerns of the minor, (or may determine that the individual's current living arrangement is appropriate) and thereafter shall require that the individual (and child, if any) reside in such living arrangement as a condition of the continued receipt of aid under the plan (or in an alternative appropriate arrangement, should circumstances change and the current arrangement cease to be appropriate) or, if the State agency is unable, after making diligent efforts, to locate any such appropriate living arrangement, it shall provide for comprehensive case management, monitoring, and other social services consistent with the best interests of the individual (and child) while living independently;".

SEC. 502. STATE OPTION TO LIMIT BENEFIT INCREASES FOR ADDITIONAL FAMILY MEMBERS.

(a) STATE OPTION.—Section 402(a) of the Act is amended—(A) by striking out "and" after paragraph (44);

(B) by striking out the period after paragraph (45) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(46) at the option of the State, provide that—

"(A) subject to subparagraphs (B), (C), and (D), the amount of aid to families with dependent children paid to a family under the

plan will not be increased by reason of the birth of a child to an individual included in such family for purposes of making the determination under paragraph (7) and applying paragraph (8), or will be increased less than the amount that would be paid with respect to such child if such child had been a member of the family when the family first applied for aid, (but any such child will be considered to be a recipient of aid for all other purposes, including title XIX) if—

"(i) in the case where the individual is a custodial parent of a dependent child, the child was conceived in a month for which the individual received aid under the plan, or

"(ii) in the case where the individual is a dependent child, the individual is the parent of another child who is a member of the same family and whose needs are included for purposes of making such determination;

"(B) services will be offered under paragraph (15) to all appropriate family members;

"(C) there will be disregarded, in making the determination under paragraph (7) and before applying the provisions of paragraph (8), an amount of income equal to any increase in aid that would have been paid but for subparagraph (A) that is derived from child support collected with respect to the child referred to in paragraph (A), earned income of a member of the family referred to in such subparagraph, or from any other source specified in the plan that the Secretary may approve as consistent with the objectives of this paragraph; and

"(D) the provisions of subparagraph (A) will not be applied in case of rape or in any other cases that the State agency finds would violate standards of fairness and good conscience.".

(b) MATCHING FOR RELATED ADMINISTRATIVE COSTS.—Section 403(a)(3) of the Act is amended by striking out the semicolon and inserting in lieu thereof "or counseling or referral services (but no other types of family planning services) furnished pursuant to section 402(a)(15);".

SEC. 503. CASE MANAGEMENT FOR PARENTS UNDER AGE 20.

Section 482(b) of the Act, as amended by section 102(2) of this Act, is further amended by—

(1) redesignating paragraph (4) as paragraph (4)(A),

(2) striking out "The State agency" in such paragraph

(4)(A) and inserting in lieu thereof "Except as provided in subparagraph (B), the State agency", and

(3) by inserting after and below paragraph (4)(A) the following:

"(B) The State agency shall—

"(i) assign a case manager to each custodial parent receiving aid under part A who is under age 20;

"(ii) provide that case managers will have the training necessary) taking into consideration the recommendations of appropriate professional organizations) to enable them to carry out their responsibilities and will be assigned a caseload the size of which permits effective case management; and

"(iii) provide that the case manager will be responsible for—

"(I) assisting such parent in obtaining appropriate services, including at a minimum, parenting education, family planning services, education and vocational training, and child care and transportation services,

"(II) making the determinations required to implement the provision of paragraph (43),

"(III) monitoring such parent's compliance with all program requirements, and, where appropriate, providing incentives and applying sanctions, and

"(IV) providing general guidance, encouragement and support to assist such parent in his or her role as a parent and in achieving self-sufficiency.".

SEC. 504. STATE OPTION TO PROVIDE ADDITIONAL INCENTIVES AND PENALTIES TO ENCOURAGE TEEN PARENTS TO COMPLETE HIGH SCHOOL AND PARTICIPATE IN PARENTING ACTIVITIES.

(a) STATE PLAN.—Section 402(a)(19)(E) of the Act (as amended by section 101 of this Act) is amended by adding "and" after clause (ii) and adding after and below clause (ii) the following new clause:

"(iii) at the option of the State, some or all custodial parents who are under age 20 (and pregnant women under age 20) who are receiving aid under this part will be required to participate in a program of monetary incentives and penalties, consistent with subsection (k);".

(b) ELEMENTS OF PROGRAM.—Section 402 of the Act is amended by adding at the end thereof the following new subsection:

"(k)(1) If a State chooses to conduct a program of monetary incentives and penalties to encourage custodial parents (and pregnant women) who are under age 20 to complete their high school (or equivalent) education, and participate in parenting activities, the State shall amend its State plan—

"(A) to specify the one or more political subdivisions in which the State will conduct the program (or other clearly defined geographic area or areas), and

"(B) to describe its program in detail.

"(2) A program under this subsection—

"(A) may, at the option of the State, include all such parents who are under age 21;

"(B) may, at the option of the State, require full-time participation in secondary school or equivalent educational activities, or participation in a course or program leading to a skills certificate found appropriate by the State agency or parenting education activities (or any combination of such activities and secondary education);

"(C) shall require that the case manager assigned to the custodial parent pursuant to section 492(b)(3) will review the needs of such parent and will assure that, either in the initial development or revision of the parent's employability plan, there will be included a description of the services that will be provided to the parent and the way in which the case manager and service providers will coordinate with the educational or skills training activities in which the custodial parent is participating;

"(D) shall provide monetary incentives for more than minimally acceptable performance of required educational activities; and

"(E) shall provide penalties (which may be those required by subsection (a)(19)(G) or, with the approval of the Secretary, other monetary penalties that the State finds will better achieve the objectives of the program.

"(3) When a monetary incentive is payable because of the more than minimally acceptable performance of required educational activities by a custodial parent, the incentive shall be paid directly to such parent, regardless of whether the State agency makes payment of aid under the State plan directly to such parent.

"(4)(A) For purposes of this part, monetary incentives paid under this subsection shall be considered aid to families with dependent children.

"(B) For purposes of any other Federal or Federally-assisted program based on need, no monetary incentive paid under this subsection shall be considered income in determining a family's eligibility for or amount of benefits under such program, and if aid is reduced by reason of a penalty under this subsection, such other program shall treat the family involved as if no such penalty has been applied.

"(5) The State agency shall from time to time provide such information as the Secretary may request, and otherwise cooperate with the Secretary, in order to permit evaluation of the effectiveness on a broad basis of the State's program conducted under this subsection.".

SEC. 505. ADOLESCENT PREGNANCY PREVENTION GRANTS.

(a) ADOLESCENT PREGNANCY PREVENTION.—Title XX (42 U.S.C. 1397–1397F) is amended by adding at the end the following:

"SEC. 2008. ADOLESCENT PREGNANCY PREVENTION GRANTS.

"(a) PURPOSE.—The purpose of this section is to encourage and provide financial assistance for the development of intensive and sustained school-linked and school-based pregnancy prevention programs for adolescents and their families in areas of high poverty or high unmarried adolescent birth rates that build upon other Federal, State, and local pregnancy prevention and youth development programs.

"(b) GENERAL AUTHORITY.—Notwithstanding section 2005(a)(6), the Secretary of Health and Human Services, the Secretary of Education, and the Chief Executive Officer of the Corporation for National and Community Service (hereinafter referred to as the 'responsible Federal officials'), in consultation with other relevant Federal agencies, shall jointly make grants to eligible entities, to carry out programs in accordance with this section.

"(c) FEDERAL ADMINISTRATION.—

"(1) Notwithstanding the Department of Education Organization Act (20 U.S.C. 3401 et seq.) and the General Education Provisions Act (20 U.S.C. 1221 et seq.), the responsible Federal officials shall jointly provide for the administration of this section, and shall jointly issue whatever regulations, procedures, and guidelines, the responsible Federal officials consider necessary and appropriate to administer and enforce the provisions of this section.

"(2) The responsible Federal officials may enter into agreements with any other Federal entity with expertise in youth development activities to administer the program under this section and may provide such entity with appropriate reimbursement.

"(d) FUNDING.—

"(1) IN GENERAL.—To achieve the purposes of this section, the responsible Federal officials shall make grants to eligible entities under subsection (b) and conduct activities under subsections (m) and (n) so that in the aggregate the expenditures for such grants and activities do not exceed $20,000,000 for fiscal year 1995, $40,000,000 for fiscal year 1996, $60,000,000 for fiscal year 1997, $80,000,000 for fiscal year 1998, and $100,000,000 for fiscal year 1999 and each subsequent fiscal year.

"(2) PAYMENTS TO GRANTEES.—Upon approval by the responsible Federal officials, each grant applicant shall be entitled to payment of at least $50,000 and not more than $400,000 for each fiscal year based on an assessment by the responsible Federal officials of the scope and quality of the proposed program and the number of adolescents to be served by the program. Payments to a grantee for any fiscal year shall be available for expenditure by such grantee in such fiscal year or the succeeding fiscal year.

"(3) RESERVATION FOR EVALUATION, TRAINING, TECHNICAL ASSISTANCE, AND NATIONAL CLEARINGHOUSE.—The responsible Federal officials shall reserve, with respect to each fiscal year, up to 10 percent of the aggregate amount described in paragraph (1) for expenditure by the responsible Federal officials of evaluation, training, and technical assistance related to the programs under this section, and for the establishment and operation of a National Clearinghouse on Adolescent Pregnancy Prevention Programs under subsection (n).

"(4) EXCESS AMOUNT.—If in any fiscal year the aggregate amount specified in paragraph (1) for such fiscal year exceeds the amount required to carry out approved grant applications and other functions under paragraph (3), then the amount specified in section 2003(c)(5) shall be increased by the excess.

"(e) DEFINITIONS.—As used in this section:

"(1) ADOLESCENTS.—The term 'adolescents' means youth who are ages 10 through 19.

"(2) ELIGIBLE ENTITY.—The term 'eligible entity' means a partnership that includes—

"(A) a local education agency, acting on behalf of one or more schools, together with

"(B) one or more community-based organizations, institutions of higher education, or public or private agencies and organizations.

"(3) ELIGIBLE AREA.—The term 'eligible area' means a school attendance area in which—

"(A) at least 75 percent of the children are from low-income families as that term is used in part A of title I of the Elementary and Secondary Education Act of 1965; or

"(B) the number of children receiving Aid to Families with Dependent Children under part A of title IV is substantial as determined by the responsible Federal officials; or

"(C) the unmarried adolescent birth rate is high, as determined by the responsible Federal officials.

"(4) SCHOOL.—The term 'school' means a public elementary, middle, or secondary school.

"(5) RESPONSIBLE FEDERAL OFFICIALS.—The term 'responsible Federal officials' means the Secretary of Education, the Secretary of Health and Human Services, and the Chief Executive Officer of the corporation for National and Community Service.

"(f) USES OF FUNDS.—Grants under this section—

"(1) shall be used to—

"(A) develop, operate, expand, and improve a sequential, age-appropriate program of instruction and counseling services for adolescents designed to promote personal responsibility and a healthy drug free lifestyle, and to prevent adolescent pregnancy, through such activities as counseling and instruction in the full range of consequences of premature sexual behavior and adolescent pregnancy, training in decision-making, and activities to promote involvement of parents and families in adolescent development and personal responsibility; and

"(B) provide opportunities for youth at-risk to develop sustained contact with one or more volunteer or professionally trained adults to provide character development, through such activities as mentoring, group coaching, or after-school activities; and

"(2) may be used to conduct other related activities that promote the purposes of this section.

"(g) APPLICATION.—Each applicant for a grant under subsection (b) must submit an application that—

"(1) includes a plan, based on local needs, for accomplishing the purposes of this section that—

"(A) sets forth specific, measurable goals intended to be accomplished under the program, and describes the methods to be used in measuring progress toward accomplishment of such goals;

"(B) describes the components of the program, including—

"(i) the role in the program of any national service participants supported by the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) or by any other national service law as defined in such Act, and

"(ii) the activities, in accordance with subsection (f), that will be made available under the program,

and the manner in which such components will be implemented, including the extent to which activities will take place after school, on weekends, or during the summer;

"(C) describes the manner in which one or more professional staff will administer the program, and, where appropriate or feasible, the manner in which national service participants will be involved in the development or delivery of services and in the coordination of during or after-school activities;

"(2) demonstrates the manner in which the program will be based on research concerning effective means of reducing adolescent pregnancy, including reducing risk-taking behaviors correlated with adolescent pregnancy;

"(3) demonstrates that the program will serve male and female adolescents and, where feasible, out-of-school adolescents, and describes the steps the applicant will take to serve such adolescents;

"(4) demonstrates the manner in which the applicant will provide, to the extent feasible, a continuity of services for adolescents until age 19;

"(5) demonstrates the extent to which school personnel, parents, community organizations, and the adolescents to be served have participated in the development of the application and will participate in the planning and implementation of the program;

"(6) describes the applicant's partnership, including the relationship of the partners, the role of each partner in the development and implementation of the program, and the manner in which the partners will coordinate their resources;

"(7) describes the nature and scope of commitment to the program by other community institutions, such as religious organizations, community groups, institutions of higher education, business, and labor;

"(8) describes the methods to be used in coordinating the provision of services under the program with the provision of services or benefits under other Federal or federally assisted programs, State and local programs, and private programs serving the same population;

"(9) demonstrates that the area to be served is an eligible area;

"(10) contains assurances that at least one activity will be located in a school in the area to be served and describes the activities that will be school-based;

"(11) contains assurances that the amounts provided under this section will not be used to supplant Federal, State, or local funds for services and activities that promote the purposes of this section;

"(12) contains assurances that the applicant will provide a non-Federal share, in cash or in kind, of at least 20 percent of the cost of carrying out the approved program;

"(13) describes the applicant's plan for continuation of the program following completion of the grant period and termination of Federal support under this section;

"(14) contains assurances that the applicant will furnish such reports, containing such information, and participate in such evaluations, as the responsible Federal officials may require; and

"(15) includes such other information and assurances as the responsible Federal officials may reasonably require.

"(h) PRIORITIES.—In making awards under this section, the responsible Federal officials shall give priority to applicants that—

"(1) provide for non-Federal resources significantly in excess of those required in subsection (g)(12) or for an increasing ratio of non-Federal resources over the term of the grant; and

"(2) participate in other Federal and non-Federal programs that relate to the purposes of this section.

"(i) TREATMENT AS NON-FEDERAL SHARE.—For purposes of the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.), the funds provided to a grantee under this section shall not be considered Federal funds.

"(j) PROHIBITION ON USE OF FUNDS.—No assistance made available under this section shall be used to provide religious instruction, to conduct worship services, or to promote any religious view or teaching in any manner.

"(k) GEOGRAPHIC DIVERSITY.—The responsible Federal officials shall, to the extent feasible, ensure that applications are approved from both urban and rural areas and reflect nationwide geographic diversity.

"(l) APPLICATION PERIOD.—An application approved under this section shall be for a term of 5 years; except that approval may be terminated before the end of such period if the responsible Federal officials determine that the grantee conducting the program has failed substantially to carry out the program as described in the approved application.

"(m) EVALUATION, TRAINING, AND TECHNICAL ASSISTANCE.—

"(1) EVALUATION.—The responsible Federal officials shall evaluate the effectiveness of programs conducted under this section, directly or by grant or contract, and may require each grantee conducting such a program to provide such information as the responsible Federal officials determine is necessary for such evaluations.

"(2) TRAINING AND TECHNICAL ASSISTANCE.—The responsible Federal officials may provide training and technical assistance with respect to the development, implementation, or operation of programs under this section.

"(3) COORDINATION WITH NATIONAL CLEARINGHOUSE.—The responsible Federal officials shall coordinate the activities conducted under this subsection with the activities conducted by the National Clearinghouse on Adolescent Pregnancy Prevention Programs under subsection (n).

"(n) NATIONAL CLEARINGHOUSE ON ADOLESCENT PREGNANCY.—

"(1) ESTABLISHMENT.—The responsible Federal officials shall establish, through grant or contract, a national center for the collection and provision of programmatic information and technical assistance that relates to adolescent pregnancy prevention programs, to be known as the 'National Clearinghouse on Adolescent Pregnancy Prevention Programs'.

"(2) FUNCTIONS.—The national center established under paragraph (1) shall serve as a national information and data clearinghouse, and as a training, technical assistance, and material development source for adolescent pregnancy prevention programs. Such center shall—

"(A) develop and maintain a system for disseminating information on all types of adolescent pregnancy prevention programs and on the state of adolescent pregnancy prevention program development, including information concerning the most effective model programs;

"(B) develop and sponsor a variety of training institutes and curricula for adolescent pregnancy prevention program staff;

"(C) identify model programs representing the various types of adolescent pregnancy prevention programs;

"(D) develop technical assistance materials and activities to assist other entities in establishing and improving adolescent pregnancy prevention programs;

"(E) develop networks of adolescent pregnancy prevention programs for the purpose of sharing and disseminating information; and

"(F) conduct such other activities as the responsible Federal officials find will assist in developing and carrying out programs or activities to reduce adolescent pregnancy.".

(b) EFFECTIVE DATE.—The amendment made by this section shall become effective October 1, 1994.

SEC. 506. DEMONSTRATION PROJECTS TO PROVIDE COMPREHENSIVE SERVICES TO PREVENT ADOLESCENT PREGNANCY IN HIGH-RISK COMMUNITIES.

(a) DEMONSTRATON PROJECTS.—Title XX (42 U.S.C. 1397–1397f) is amended by adding at the end the following:

"SEC. 2009. DEMONSTRATION PROJECTS TO PROVIDE COMPREHENSIVE SERVICES TO PREVENT ADOLESCENT PREGNANCY IN HIGH-RISK COMMUNITIES.

"(a)(1) PURPOSE.—In order to stimulate the development of innovative approaches for the effective delivery of comprehensive services, with particular emphasis on pregnancy prevention, to certain youth and their families in high-risk communities and the promotion of community involvement in improving the environment in which such youth live, the Secretary of Health and Human Services shall conduct demonstration projects in accordance with this section.

"(2) APPROVAL OF PROJECTS.—The Secretary of Health and Human Services, in consultation with the Secretary of Education, the Secretary of Housing and Urban Development, the Attorney General, the Director of the Office of National Drug Control Policy, and the Secretary of Labor, shall approve at least 5 and not more than 7 projects, in accordance with subsection (c). Upon approval by the Secretary, each project applicant shall be entitled to payment of up to $3,600,000 for each of fiscal years 1995 through 1999 for the purpose of conducting approved demonstration projects.

"(b) FUNDING.—

"(1) IN GENERAL.—There shall be made available to the Secretary not to exceed 420,000,000 for each of fiscal years 1995 through 1999 for carrying out the projects under this section. Payments to a grantee for any fiscal year must be expended by the grantee in such fiscal year or the succeeding fiscal year.

"(2) EVALUATION TRAINING, AND TECHNICAL ASSISTANCE.—The Secretary shall reserve, with the respect to each fiscal year, ten percent of the amount described in paragraph (1) for expenditure by the Secretary for training and technical assistance related to the demonstration projects under this section and for evaluation of such projects. The amount so reserved shall remain available for obligation through fiscal year 1999.

"(3) EXCESS AMOUNTS.—If in any fiscal year the amount specified in paragraph (1) for such fiscal year exceeds the amount required to carry out approved projects and evaluation, training, and technical assistance under this section, then the amount specified in section 2003(c)(5) shall be increased by the excess.

"(c) APPLICATION; ELIGIBILITY CRITERIA.—A local public or private nonprofit organization, including a unit of government, or any combination of such entities, shall be eligible to submit a project application. In order that an application be approved under subsection (a), the application must—

"(1) demonstrate that the geographic area to be served by the project satisfies the following criteria:

"(A) it includes a population of 20,000 to 35,000 residents,

"(B) it has an identifiable boundary and is recognizable as a community by its residents, and

"(C) within the community, there is a poverty rate of not less than 20 percent;

"(2) include a plan for accomplishing the purposes of this section that—

"(A) describes the comprehensive, integrated services, in accordance with subsection (e), that will be made available under the project;

"(B)(i) sets forth the goals intended to be accomplished under the project, and

"(ii) describes the methods to be used in measuring progress toward accomplishment of such goals and the outcomes to be measured, including unmarried adolescent birth rates, rates of youth alcohol and drug use, rates of youth violence, high school graduation rates, and such other outcomes as the Secretary finds appropriate;

"(C) describes the process by which the affected community (including parents, the youth to be served, schools, local government, religious organizations, community groups, business, and labor) is a full partner in the process of developing and implementing the project and the extent to which parents, the youth to be served, and local institutions and organizations have contributed to the planning process;

"(D) identifies the private and public partnerships to be used;

"(E) describes the methods to be used in coordinating the provision of services under the project and the provision of services or benefits under other Federal or federally assisted programs, State and local programs, and private programs serving the same population; and

"(F) describes the manner in which other Federal funds and non-Federal funds will be used to further the purpose of the program;

"(3) demonstrate strong State and local government commitment to the project and involvement in the planning and implementation of the project;

"(4) demonstrate the ability of the applicant to carry out the project;

"(5) describe the methods to be used for maintaining accurate records regarding the activities carried out with funds under this section;

"(6) contain assurances that the amounts provided under this section will not be used to supplant Federal, State, and local funds for services and activities that promote the purposes of this section;

"(7) contain assurances that the applicant will provide a non-Federal share, in cash or in kind, of 10 percent of the cost of carrying out the approved project and describe the capacity of the applicant to provide the non-Federal share;

"(8) contain assurances that the applicant will furnish such reports, containing such information, and participate in such evaluations, as the Secretary may require; and

"(9) include such other information as the Secretary may require.

"(d) PRIORITY.—In making awards under this section, the Secretary shall give priority to applicants that provide for non-Federal resources significantly in excess of those required in subsection (c)(7).

"(e) USE OF GRANTS.—Under each demonstration project conducted under this section, the grantee shall develop a community-wide strategy to address the causes and factors of risk-taking tendencies among youth, to positively affect community norms, to increase community health and safety, and to generally improve the social environment to enhance the life choice of community youth. The strategy shall be used to provide a comprehensive set of coordinated services designed to saturate the community and shall include, but not be limited to, the following areas:

"(1) health education and access services designed to promote physical and mental well-being and personal responsibility (with particular emphasis on pregnancy prevention), such as school health services, family planning services, alcohol and drug abuse prevention services and referral for treatment, life skills training, and decision-making skills training;

"(2) educational and employability development services designed to promote educational advancement leading to a high school diploma or its equivalent and opportunities for high skill, high wage job attainment and productive employment, to establish a lifelong commitment to learning and achievement, and to increase self-confidence, such as academic tutoring, literacy training, drop-out prevention programs, career and college counseling, mentoring programs, job skills training, apprenticeships, and part-time paid work opportunities;

"(3) social support services designed to provide youth with a stable environment, opportunities for a sustained relationship with one or more adults, and opportunities for participation in safe and productive activities, such as cultural, recreational and sports activities, leadership development, peer counseling and crisis intervention, mentoring programs, parenting skills training, and family counseling;

"(4) community activities designed to improve community stability, and to encourage youth to participate in community service and establish a stake in the community, such as community policing, community service programs, community activities in partnership with less distressed neighborhoods, local media campaigns, and establishment of community advisory councils with youth representation; and

"(5) employment opportunity development activities designed to be coordinated with educational and employability development services, social support services, and community activities described in paragraphs (2) through (4). Emphasis shall be on development of linkages with employers within and outside the community to help create employment opportunities and foster an understanding by community youth of the relationship between productive employment, healthy development, and sound life choices.

"(f) EVALUATION, TRAINING, AND TECHNICAL ASSISTANCE.—

"(1) EVALUATION.—The Secretary shall evaluate the effectiveness of each demonstration project conducted under this section and may require each grantee conducting such a project to provide such information as the Secretary determines is necessary for such evaluations.

"(2) TRAINING AND TECHNICAL ASSISTANCE.—The Secretary shall provide training and technical assistance with respect to the development, implementation, or operation of projects under this section.

"(3) COORDINATION WITH NATIONAL CLEARINGHOUSE.—The Secretary shall coordinate the activities conducted under this subsection with activities conducted by the National Clearinghouse on Adolescent Pregnancy Prevention Programs under section 2008(n).

"(g) FUNDING PERIOD.—Each demonstration project supported under this section shall be conducted for a 5-year period; except that the Secretary may terminate a project before the end of such period if the Secretary determines that the grantee conducting the project has failed substantially to carry out the project as described in the approved application.

"(h) DEFINITIONS AND SPECIAL RULES.—As used in this section:

"(1) YOUTH.—The term "youth" means an individual who is not less than 10 years of age and not more than 21 years of age.

"(2) USE OF CENSUS DATA.—Population and poverty rate shall be determined by the most recent decennial census data available.".

(b) EFFECTIVE DATE.—The amendment made by this section shall become effective October 1, 1994.

TITLE VI—CHILD SUPPORT ENFORCEMENT

SEC. 600. REFERENCES IN TITLE.

References in this title to a section or other provision refer to a section or other provision of the Social Security Act, unless the context otherwise requires.

PART A—ELIGIBILITY AND OTHER MATTERS CONCERNING TITLE IV-D PROGRAM CLIENTS

SEC. 601. COOPERATION REQUIREMENT AND GOOD CAUSE EXCEPTION.

(a) CHILD SUPPORT ENFORCEMENT REQUIREMENTS.—Section 454 is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

(3) by adding after paragraph (24) the following new paragraph:

"(25) provide that the State agency administering the plan under this part—

"(A) will make the determination specified under paragraph (4), as to whether an individual is cooperating with efforts to establish paternity and secure support (or has good cause not to cooperate with such efforts) for purposes of the requirements of sections 402(a)(26) and 1912;

"(B) will advise individuals, both orally and in writing, of the grounds for good cause exceptions to the requirement to cooperate with such efforts;

"(C) will take the best interests of the child into consideration in making the determination whether such individual has good cause not to cooperate with such efforts;

"(D)(i) will make the initial determination as to whether an individual is cooperating (or has good cause not to cooperate) with efforts to establish paternity within 10 days after such individual is referred to such State agency by the State agency administering the program under part A of title XIX;

"(ii) will make redeterminations as to cooperation or good cause at appropriate intervals; and

"(iii) will promptly notify the individual, and the State agencies administering such programs, of each such determination and redetermination;

"(E) with respect to any child born on or after the date 10 months after enactment of this provision, will not determine (or redetermine) the mother (or other custodial relative) of such child to be cooperating with efforts to establish paternity unless such individual furnishes—

"(i) the name of the putative father (or fathers); and

"(ii) sufficient additional information to enable the State agency, if reasonable efforts were made, to verify the identity of the person named as the putative father (including such information as the putative father's present address, telephone number, date of birth, past or present place of employment, school previously or currently attended, and names and addresses of parents, friends, or relatives able to provide location information, or other information that could enable service of process on such person), and

"(F)(i) (where a custodial parent who was initially determined not to be cooperating (or to have good cause not to cooperate) is later determined to be cooperating or to have good cause not to cooperate) will immediately notify the State agencies administering the programs under part A of title XIX that this eligibility condition has been met; and

"(ii) (where a custodial parent was initially determined to be cooperating (or to have good cause not to cooperate) will not later determine such individual not to be cooperating (or not to have good cause not to cooperate) until such individual has been afforded an opportunity for a hearing.".

(b) AFDC AMENDMENTS.—

(1) Section 402(a)(11) is amended by striking "furnishing of" and inserting "application for".

(2) Section 402(a)(26) is amended—

(A) in each of subparagraphs (A) and (B), by redesignating clauses (i) and (ii) as subclauses (I) and (II);

(B) by indenting and redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iv), respectively;

(C) in clause (ii), as redesignated—

(i) by striking "is claimed, or in obtaining any other payments or property due such applicant or such child," and inserting "is claimed;"; and

(ii) by striking "unless" and all that follows through "aid is claimed; and";

(D) by adding after clause (ii) the following new clause:

"(iii) to cooperate with the State in obtaining any other payments or property due such applicant or such child; and";

(E) in the matter preceding clause (i), as redesignated, to read as follows:

"(26) provide—

"(A) that, as a condition of eligibility for aid, each applicant or recipient will be required (subject to subparagraph (C))—";

(F) in subparagraph (A)(iv), as redesignated, by striking ", unless such individual" and all that follows through "individuals involved";

(G) by adding at the end the following new subparagraphs:

"(B) that the State agency will immediately refer each applicant requiring paternity establishment services to the State agency administering the program under part D;

"(C) that an individual will not be required to cooperate with the State, as provided under subparagraph (A), if the individual is found to have good cause for refusing to cooperate, as determined in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the child on whose behalf aid is claimed—

"(i) to the satisfaction of the State agency administering the program under part D, as determined in accordance with section 454(25), with respect to the requirements under clauses (i) and (ii) of subparagraph (A); and

"(ii) to the satisfaction of the State agency administering the program under this part, with respect to the requirements under clauses (iii) and (iv) of subparagraph (A);

"(D) that (except as provided in subparagraph (E)) an applicant requiring paternity establishment services (other than an individual eligible for emergency assistance as defined in section 406(e)) shall not be eligible for any aid under this part until such applicant—

"(i) has furnished to the agency administering the State plan under part D the information specified in section 454(25)(E); or

"(ii) has been determined by such agency to have good cause not to cooperate;

"(E) that the provisions of subparagraph (D) shall not apply—

"(i) if the State agency specified in such subparagraph has not, within 10 days after such individual was referred to such agency, provided the notification required by section 454(25)(D)(iii), until such notification is received); and

"(ii) if such individual appeals a determination that the individual lacks good cause for noncooperation, until after such determination is affirmed after notice and opportunity for a hearing); and"; and

(H)(i) by relocating and redesignating as subparagraph (F) the text at the end of subparagraph (A)(ii) beginning with "that, if the relative" and all that follows through the semicolon;

(ii) in subparagraph (F), as so redesignated and relocated, by striking "subparagraphs (A) and (B) of this paragraph" and inserting "subparagraph (A); and

(iii) by striking "and" at the end of subparagraph (a)(ii).

(c) MEDICAID AMENDMENTS.—Section 1912(a) is amended—

(1) in paragraph (1)(B), by inserting "(except as provided in paragraph (2))" after "to cooperate with the State"; and

(2) in subparagraphs (B) and (C) of paragraph (1) by striking ", unless" and all that follows and inserting a semicolon;

(3) by redesignating paragraph (2) as paragraph (5), and inserting after paragraph (1) the following new paragraphs:

"(2) provide that the State agency will immediately refer each applicant or recipient requiring paternity establishment services to the State agency administering the program under part D of title IV;

"(3) provide that an individual will not be required to cooperate with the State, as provided under paragraph (1), if the individual is found to have good cause for refusing to cooperate, as determined in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the individuals involved—

"(A) to the satisfaction of the State agency administering the program under part D, as determined in accordance with section 454(25), with respect to the requirements to cooperate with efforts to establish paternity and to obtain support (including medical support) from a parent; and

"(B) to the satisfaction of the State agency administering the program under this title, with respect to other requirements to cooperate under paragraph (1);

"(4) provide that (except as provided in paragraph (5)) an applicant requiring paternity establishment services (other than an

individual eligible for emergency assistance as defined in section 406(e), or presumptively eligible pursuant to section 1920) shall not be eligible for medical assistance under this title until such applicant—

"(i) has furnished to the agency administering the State plan under part D of title IV the information specified in section 454(25)(E); or

"(ii) has been determined by such agency to have good cause not to cooperate; and

"(5) provide that the provisions of paragraph (4) shall not apply with respect to an applicant—

"(I) if such agency has not, within 10 days after such individual was referred to such agency, provided the notification required by section 454(25)(D)(iii), until such notification is received); and

"(ii) if such individual appeals a determination that the individual lacks good cause for noncooperation, until after such determination is affirmed after notice and opportunity for a hearing.".

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to applications filed in or after the first calendar quarter beginning 10 months or more after enactment of this amendment (or such earlier quarter as the State may select) for aid under title IV-A or for medical assistance under title XIX.

SEC. 602. STATE OBLIGATION TO PROVIDE PATERNITY ESTABLISHMENT AND CHILD SUPPORT ENFORCEMENT SERVICES.

(a) STATE LAW REQUIREMENTS.—Section 466(a) is amended by adding at the end the following new paragraph:

"(12) USE OF CENTRAL CASE REGISTRY AND CENTRALIZED COLLECTIONS UNIT.—Procedures under which—

"(A) every child support order established or modified in the State on or after October 1, 1997 is recorded in the central case registry established in accordance with section 454A(e); and

"(B) child support payments are collected through the centralized collections unit established in accordance with section 454B—

"(i) on and after October 1, 1997, under each order subject to wage withholding under section 466(b); and

"(ii) on and after October 1, 1998, under each other order required to be recorded in such central case registry under this paragraph or section 454A(e), except as provided in subparagraph (C); and

"(C)(i) parties subject to a child support order described in subparagraph (B)(ii) may opt out of the procedure for payment of support through the centralized collections unit (but not the procedure for inclusion in the central case registry) by filing with the State agency a written agreement, signed by both parties, to an alternative payment procedure; and

"(ii) an agreement described in clause (i) becomes void, and may not be renewed, whenever—

"(I) the party owing support fails to make a timely payment; or

"(II) either party advises the State agency of an intent to vacate the agreement.".

(b) STATE PLAN REQUIREMENTS.—Section 454 is amended—

(1) in paragraph (4), to read as follows:

"(4) provide that such State will undertake—

"(A) to provide appropriate services under this part to—

"(i) each child with respect to whom an assignment is effective under section 402(a)(26), 471(a)(17), or 1912 (except in cases where the State agency determines, in accordance with paragraph (25), that it is against the best interests of the child to do so); and

"(ii) each child not described in clause (i)—

"(I) with respect to whom an individual applies for such services; and

"(II) (on and after October 1, 1997) each child with respect to whom a support order is recorded in the central State case registry established under section 454A, regardless of whether application is made for services under this part; and

"(B) to enforce the support obligation established with respect to the custodial parent of a child described in subparagraph (A).";

(2) in paragraph (6)—

(A) by striking all that precedes subparagraph (C) and inserting the following:

"(6) provide that—

"(A) services under the State plan shall be made available to non-residents on the same terms as to residents;

"(B) no fees or costs shall be imposed on any absent or custodial parent or other individuals—

"(i) on or after October 1, 1997, for application for child support enforcement services under this part; or

"(ii) for inclusion in the central State registry maintained pursuant to section 454A(e);"; (B) in each of subparagraphs (C) and (D)—

(i) by indenting such subparagraph and aligning its left margin with the left margin of paragraph (B); and

(ii) by striking the final comma and inserting a semicolon;

(C) by striking subparagraph (E) and inserting the following subparagraphs:

"(E) no other fees or costs may be imposed on the custodial parent; and

"(F) any other fees or costs may be imposed on the noncustodial parent (but fees for child support collection services provided through the central collections unit operated pursuant to section 454B, or for related automated procedures pursuant to section 454A(g), may be imposed only if such fees or costs are added to, and not deducted from, amounts collected as child support);".

(c) CONFORMING AMENDMENTS.—

(1) Section 452(g)(2)(A) is amended by striking "454(6)" each place it appears and inserting "454(4)(A)(ii)".

(2) Section 454(23) is amended, effective October 1, 1997, by striking "information as to any application fees for such services and".

(3) Section 466(a)(3)(B) is amended by striking "in the case of overdue support which a State has agreed to collect under section 454(6)" and inserting "in any other case".

(4) Section 466(e) is amended by striking "or (6)".

SEC. 603. DISTRIBUTION OF PAYMENTS.

(a) DISTRIBUTIONS THROUGH STATE CHILD SUPPORT ENFORCEMENT AGENCY TO FORMER ASSISTANCE RECIPIENTS.—Section 454(5) is amended—

(1) in subparagraph (A)—

(A) by inserting "except as otherwise specifically provided in section 464 or 466(a)(3)," after "is effective,"; and

(B) by striking "except that" and all that follows through the semicolon; and

(2) in subparagraph (B), by striking ", except" and all that follows through "medical assistance".

(b) DISTRIBUTION TO A FAMILY CURRENTLY RECEIVING AFDC.—Section 457 is amended—

(1) by striking subsection (a) and redesignating subsection (b) as subsection (a);

(2) in subsection (a), as redesignated—

(A) in the matter preceding paragraph (2), to read as follows:

"(a) IN THE CASE OF A FAMILY RECEIVING AFDC.—Amounts collected under this part during any month as support of a child who is receiving assistance under part A (or a parent or caretaker relative of such a child) shall (except in the case of a State exercising the option under subsection (b)) be distributed as follows:

"(1) an amount equal to the amount specified in section 402(a)(8)(A)(vi) shall be taken from each of—

"(A) amounts received in a month which represent payments for that month; and

"(B) amounts received in a month which represent payments for a prior month which were made by the absent parent in the month when due;

and shall be paid to the family without affecting its eligibility for assistance or decreasing any amount otherwise payable as assistance to such family during such month;";

(B) in paragraph (4), by striking "or (B)" and all that follows and inserting"; then (B) from any remainder, amounts equal to arrearages of such support obligations assigned, pursuant to part A, to any other State or States shall be paid to such other State or States and used to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing); and then (C) any remainder shall be paid to the family.".

(3) by inserting after subsection (a), as redesignated, the following new subsection:

"(b) ALTERNATIVE DISTRIBUTION IN CASE OF FAMILY RECEIVING AFDC.—In the case of a State electing the option under this subsection, amounts collected as described in subsection (a) shall be distributed as follows:

"(1) an amounts equal to the amount specified in section 402(a)(8)(A)(vi) shall be taken from each of—

"(A) amounts received in a month which represent payments for that month; and

(B) amounts received in a month which represent payments for a prior month which were made by the absent parent in the month when due;

and shall be paid to the family without affecting its eligibility for assistance or decreasing any amount otherwise payable as assistance to such family during such month;

"(2) second, from any remainder, amounts equal to the balance of support owed for the current month shall be paid to the family;

"(3) third, from any remainder, amounts equal to arrearages of such support obligations assigned, pursuant to part A, to the State making the collection shall be retained and used by such State to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

"(4) fourth, from any remainder, amounts equal to arrearages of such support obligations assigned, pursuant to part A, to any other State or States shall be paid to such other State or States and used to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing); and

"(5) fifth, any remainder shall be paid to the family.".

(c) DISTRIBUTION TO A FAMILY NOT RECEIVING AFDC.—Section 457(c) is amended to read as follows:

"(c) IN CASE OF FAMILY NOT RECEIVING AFDC.—Amounts collected by a State agency under this part during any month as support of a child who is not receiving assistance under part A (or of a parent or caretaker relative of such a child) shall (subject

to the remaining provisions of this section) be distributed as follows:

"(1) first, amounts equal to the total of such support owed for such month shall be paid to the family;

"(2) second, from any remainder, amounts equal to arrearages of such support obligations for months during which such child did not receive assistance under part A shall be paid to the family;

"(3) third, from any remainder, amounts equal to arrearages of such support obligations assigned to the State making the collection pursuant to part A shall be retained and used by such State to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

"(4) fourth, from any remainder, amounts equal to arrearages of such support obligations assigned to any other State pursuant to part A shall be paid to such other State or States, and used to pay such arrearages, in the order in which such arrearages accrued (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing).".

(d) DISTRIBUTION TO A CHILD RECEIVING ASSISTANCE UNDER TITLE IV-E.—Subsection (d) is amended, in the matter preceding paragraph (1), by striking "Notwithstanding the preceding provisions of this section, amounts" and inserting "In Case of a Child Receiving Assistance under Title IV-E.—Amounts".

(e) SUSPENSION OR CANCELLATION OF DEBTS UPON MARRIAGE OF PARENTS.—Section 457 is further amended by adding at the end the following new subsection:

"(e) SUSPENSION OR CANCELLATION OF DEBTS TO STATE UPON MARRIAGE OF PARENTS.—

"1. CIRCUMSTANCES REQUIRING SUSPENSION OR CANCELLATION.—In any case in which a State has been assigned rights to support owed with respect to a child who is receiving or has received assistance under part A and—

"(A) the parent owing such support marries (or remarries) the parent with whom such child is living and to whom such support is owed and applies to the State for relief under this subsection;

"(B) the State determines (in accordance with procedures and criteria established by the Secretary) that the marriage is not a sham marriage entered into solely to satisfy this subsection; and

"(C) the combined income of such parents is less than twice the Federal poverty line,

the State shall afford relief to the parent owing such support in accordance with paragraph (2).

"(2) SUSPENSION OR CANCELLATION.—In the case of a marriage or remarriage described in paragraph (1), the State shall either—

"(A) cancel all debts owed to the State pursuant to such assignment, or

"(B) suspend collection of such debts for the duration of such marriage, and cancel such debts if such duration extends beyond the end of the period with respect to which support is owed.

"(3) NOTICE REQUIRED.—The State shall notify custodial parents of children who are receiving aid under part A of the relief available under this subsection to individuals who marry (or remarry).".

(f) REGULATIONS.—The Secretary shall promulgate regulations—

(1) under title IV-D of the Social Security Act, establishing a uniform nationwide standard for allocation of child support collections from an obligor owing support to more than one family; and

(2) under title IV-A of such Act, establishing standards applicable to States electing the alternative formula under section 457(b) of the Social Security Act for distribution of collections on behalf of families receiving Aid to Families with Dependent Children, designed to minimize irregular monthly payments to such families.

(g) CLERICAL AMENDMENT.—Section 454 is amended—

(1) in paragraph (11), by striking "(11)" and inserting "(11)(A)"; and

(2) by redesignating paragraph (12) as subparagraph (B) of paragraph (11).

(h) CONFORMING AMENDMENT.—Section 402(a)(26)(A)(i), as redesignated by section 601(b)(2)(A), is amended—

(1) by striking "(I)"; and

(2) by striking ", and (II)" and all that follows before the semicolon.

SEC. 604. DUE PROCESS RIGHTS.

(a) Section 454, as amended by section 603(g), is further amended by inserting after paragraph (11) the following new paragraph:

"(12) provide for procedures to ensure that—

"(A) individuals who are parties to cases in which services are being provided under this part—

"(i) receive notice of all proceedings in which support obligations might be established or modified; and

"(ii) receive a copy of any order establishing or modifying a child support obligation within 14 days after issuance of such order; and

"(B) individuals receiving services under this part have access to a fair hearing or other formal complaint procedure, meeting standards established by the Secretary, that ensures prompt consideration and resolution of complaints (but the resort to such procedure shall not stay the enforcement of any support order);".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1996.

SEC. 605. PRIVACY SAFEGUARDS.

(a) STATE PLAN REQUIREMENT.—Section 454, as amended by section 601, is further amended—

(1) by striking "and" at the end of paragraph (24);

(2) by striking the period at the end of paragraph (25) and inserting "; and"; and

(3) by adding after paragraph (25) the following new paragraph;

"(26) will have in effect safeguards applicable to all sensitive and confidential information handled by the State agency designed to protect the privacy rights of the parties, including—

"(A) safeguards against unauthorized use or disclosure of information relating to proceedings or actions to establish paternity, or to establish or enforce support; and

"(B) prohibitions on the release of information on the whereabouts of one party to another party against whom a protective order with respect to such party has been entered.".

(b) The amendments made by this section shall become effective on October 1, 1996.

SEC. 606. REQUIREMENT TO FACILITATE ACCESS TO SERVICES.

(a) STATE PLAN REQUIREMENT.—Section 454(23) is amended—

(1) by striking "the State will regularly" and inserting "the State will—

"(A) regularly";

(2) by incorporating the remainder of the text within subparagraph (A);

(3) by striking "and" at the end; and

(4) by adding after and below subparagraph (A) the following new subparagraph:

"(B) have a plan for outreach to parents designed to disseminate information about and increase access to child support enforcement services, including plans responding to needs—

"(i) of working parents to obtain such services without taking time off work; and

"(ii) of parents with limited proficiency in English for elimination of language barriers to use of such services; and".

(b) The amendments made by this section shall become effective on October 1, 1996.

PART B—PROGRAM ADMINISTRATION AND FUNDING

SEC. 611. FEDERAL MATCHING PAYMENTS.

(a) INCREASED BASE MATCHING RATE.—Section 455(a)(2) is amended to read as follows:

"(2) The applicable percent for a quarter for purposes of paragraph (1)(A) is—

"(A) for fiscal year 1996, 69 percent,

"(B) for fiscal year 1997, 72 percent, and

"(C) for fiscal year 1998 and succeeding fiscal years, 75 percent.".

(b) MAINTENANCE OF EFFORT.—Section 455 is amended—

(1) in subsection (a)(1), in the matter preceding subparagraph (A), by striking "From" and inserting "Subject to subsection (c), from"; and

(2) by inserting after subsection (b) the following new subsection:

"(c) MAINTENANCE OF EFFORT.—Notwithstanding the provisions of subsection (a), total expenditures for the State program under this part for fiscal year 1996 and each succeeding fiscal year, reduced by the percentage specified for such fiscal year under subsection (a)(2)(A), (B), or (C)(i), shall not be less than such total expenditures for fiscal year 1995, reduced by 66 percent.

SEC. 612. PERFORMANCE-BASED INCENTIVES AND PENALTIES.

(a) INCENTIVE ADJUSTMENTS TO FEDERAL MATCHING RATE.—(1) IN GENERAL.—Section 458 is amended to read as follows:

"INCENTIVE ADJUSTMENTS TO MATCHING RATE

"SEC. 458. (a) INCENTIVE ADJUSTMENT.—(1) IN GENERAL.—In order to encourage and reward State child support enforcement programs which perform in an effective manner, the Federal matching rate for payments to a State under section 455(a)(1)(A), for each fiscal year beginning on or after October 1, 1997, shall be increased by a factor reflecting the sum of the applicable incentive adjustments (if any) determined in accordance with regulations under this section with respect to Statewide paternity establishment and to overall performance in child support enforcement.

"(2) STANDARDS.—(A) IN GENERAL.—The Secretary shall specify in regulations—

"(i) the levels of accomplishment, and rates of improvement as alternatives to such levels, which States must attain to qualify for incentive adjustments under this section; and

"(ii) the amounts of incentive adjustment that shall be awarded to States achieving specified accomplishment or improvement levels, which amounts shall be graduated, ranging up to—

"(I) 5 percentage points, in connection with Statewide paternity establishment; and

"(II) 10 percentage points, in connection with overall performance in child support enforcement.

"(B) LIMITATION.—In setting performance standards pursuant to subparagraph (A)(i) and adjustment amounts pursuant to subparagraph (A)(ii), the Secretary shall ensure that the aggregate number of percentage point increases as incentive adjustments to

all States do not exceed such aggregate increases as assumed by the Secretary in estimates of the cost of this section as of June 1994, unless the aggregate performance of all States exceeds the projected aggregate performance of all States in such cost estimates.

"(3) DETERMINATION OF INCENTIVE ADJUSTMENT.—The Secretary shall determine the amount (if any) of incentive adjustment due each State on the basis of the data submitted by the State pursuant to section 454(15)(B) concerning the levels of accomplishment (and rates of improvement) with respect to performance indicators specified by the Secretary pursuant to this section.

"(4) FISCAL YEAR SUBJECT TO INCENTIVE ADJUSTMENT.—The total percentage point increase determined pursuant to this section with respect to a State program in a fiscal year shall apply as an adjustment to the applicable percent under section 455(a)(2) for payments to such State for the succeeding fiscal year.

"(b) MEANING OF TERMS.—For purposes of this section—

"(1) the term 'Statewide paternity establishment percentage' means, with respect to a fiscal year, the ratio (expressed as a percentage) of—

"(A) the total number of out-of-wedlock children in the State under one year of age for whom paternity is established or acknowledged during the fiscal year, to

"(B) the total number of children born out of wedlock in the State during such fiscal year; and

"(2) the term 'overall performance in child support enforcement' means a measure or measures of the effectiveness of the State agency in a fiscal year which takes into account factors including—

"(A) the percentage of cases requiring a child support order in which such an order was established;

"(B) the percentage of cases in which child support is being paid;

"(C) the ratio of child support collected to child support due; and

"(D) the cost-effectiveness of the State program, as determined in accordance with standards established by the Secretary in regulations.".

(b) TITLE IV-D PAYMENT ADJUSTMENT.—Section 455(a)(2), as amended by section 611, is further amended—

(1) by striking the period at the end of subparagraph (C)(ii) and inserting a period; and

(2) by adding after and below subparagraph (C), flush with the left margin of the subsection, the following:

"increased by the incentive adjustment factor (if any) determined by the Secretary pursuant to section 458.".

(c) CONFORMING AMENDMENTS.—Section 454(22) is amended—

(A) by striking "incentive payments" the first place it appears and inserting "incentive adjustments"; and

(B) by striking "any such incentive payments made to the State for such period" and inserting "any increases in Federal payments to the State resulting from such incentive adjustments".

(d) CALCULATION OF IV-D PATERNITY ESTABLISHMENT PERCENTAGE.—(A) Section 452(g) is amended in paragraph (1), in the matter preceding subparagraph (A), by inserting "its overall performance in child support enforcement is satisfactory (as defined in section 458(b) and regulations of the Secretary), and" after "1994,".

(B) Section 452(g)(2) is amended—

(i) in subparagraph (A), in the matter preceding clause (i)—

(I) by striking "paternity establishment percentage" and inserting "IV-D paternity establishment percentage"; and

(II) by striking "(or all States, as the case may be)";

(ii) in subparagraph (A)(i), by striking "during the fiscal year";

(iii) in subclause (I) of subparagraph (A)(ii), by striking "as of the end of the fiscal year" and inserting "in the fiscal year or, at the option of the State, as of the end of such year";

(iv) in subclause (II) of subparagraph (A)(ii), by striking "or (E) as of the end of the fiscal year" and inserting "in the fiscal year or, at the option of the State, as of the end of such year";

(v) in subparagraph (A)(iii)—

(I) by striking "during the fiscal year"; and

(II) by striking "and" at the end; and (vi) in the matter following subparagraph (A)—

(I) by striking "who were born out of wedlock during the immediately preceding fiscal year" and inserting "born out of wedlock";

(II) by striking "such preceding fiscal year" both places it appears and inserting "the preceding fiscal year"; and

(III) by striking "or (E)" the second place it appears.

(C) Section 452(g)(3) is amended—

(i) by striking subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;

(ii) in subparagraph (A), as redesignated, by striking "the percentage of children born out-of-wedlock in the State" and inserting "the percentage of children in the State who are born out of wedlock or for whom support has not been established"; and

(iii) in subparagraph (B), as redesignated—

(I) by inserting "and overall performance in child support enforcement" after "paternity establishment percentages"; and

(II) by inserting "and securing support" before the period.

"(e) TITLE IV-A PAYMENT REDUCTION.—Section 403 is amended—

(1) in subsection (a), by striking "1958—" and inserting "1958—" (subject to subsection (h))—";

(2) in subsection (h), by striking all that precedes paragraph (3) and inserting the following:

"(h)(1) If the Secretary finds, with respect to a State program under this part in a fiscal year beginning on or after October 1, 1996—

"(A)(i) on the basis of data submitted by a State pursuant to section 454(15)(B), that the State program in such fiscal year failed to achieve the IV-D paternity establishment percentage (as defined in section 452(g)(2)(A)) or the appropriate level of overall performance in child support enforcement (as defined in section 458(b)(2)), or to meet other performance measures that may be established by the Secretary, or

"(ii) on the basis of an audit or audits of such State data conducted pursuant to section 452(a)(4)(C), that the State data submitted pursuant to section 454(15)(B) is incomplete or unreliable; and

"(B) that, with respect to the succeeding fiscal year—

"(i) the State failed to take sufficient corrective action to achieve the appropriate performance levels as described in subparagraph (A)(i), or

"(ii) the data submitted by the State pursuant to section 454(15)(B) is incomplete or unreliable,

the amounts otherwise payable to the State under this part for quarters following the end of such succeeding fiscal year, prior to quarters following the end of the first quarter throughout which the State program is in compliance with such performance requirement, shall be reduced by the percentage specified in paragraph (2).

"(2) The reductions required under paragraph (1) shall be—

"(A) not less than one nor more than two percent, or

"(B) not less than two nor more than three percent, if the finding is the second consecutive finding made pursuant to paragraph (1), or

"(C) not less than three nor more than five percent, if the finding is the third or a subsequent consecutive such finding."; and

(3) in subsection (h)(3), by striking "not in full compliance" and all that follows and inserting "determined as a result of an audit to have submitted incomplete or unreliable data pursuant to section 454(15)(B), shall be determined to have submitted adequate data if the Secretary determines that the extent of the incompleteness or unreliability of the data is of a technical nature which does not adversely affect the determination of the level of the State's performance.".

(f) EFFECTIVE DATES.—

(1) INCENTIVE ADJUSTMENTS.—(A) The amendments made by subsections (a), (b), and (c) shall become effective October 1, 1996, except to the extent provided in subparagraph (B).

(B) The provisions of section 458 of the Act, as in effect prior to the enactment of this section, shall be effective for purposes of incentive payments to States for fiscal years prior to fiscal year 1998.

(2) PENALTY REDUCTIONS.—(A) The amendments made by subsection (d) shall become effective with respect to calendar quarters beginning on and after the date of enactment of this Act.

(B) The amendments made by subsection (e) shall become effective with respect to calendar quarters beginning on and after the date one year after the date of enactment of this Act.

SEC. 613. FEDERAL AND STATE REVIEWS AND AUDITS.

(a) STATE AGENCY ACTIVITIES.—Section 454 is amended—

(1) in paragraph (14), by striking "(14)" and inserting "(14)(A)";

(2) by inserting paragraph (15) as subparagraph (B) of paragraph (14); and

(3) by inserting after paragraph (14) the following new paragraph:

"(15) provide for—

"(A) a process for annual reviews of and reports to the Secretary on the State program under this part, using such standards and procedures as are required by the Secretary, under which the State agency will determine the extent to which such program is in conformity with applicable requirements with respect to the operation of State programs under this part (including the status of complaints filed under the procedure required under paragraph (12)(B)); and

"(B) a process of extracting from the State automated data processing system and transmitting to the Secretary data and calculations concerning the levels of accomplishment (and rates of improvement) with respect to applicable performance indicators (including IV-D paternity establishment percentages and overall performance in child support enforcement) to the extent necessary for purposes of sections 452(g) and 458.".

(b) FEDERL ACTIVITIES.—Section 452(a)(4) is amended to read as follows:

"(4)(A) review data and calculations transmitted by State agencies pursuant to section

454(15)(B) on State program accomplishments with respect to performance indicators for purposes of section 452(g) and 458, and determine the amount (if any) of penalty reductions pursuant to section 403(h) to be applied to the State;

"(B) review annual reports by State agencies pursuant to section 454(15)(A) on State program conformity with Federal requirements; evaluate any elements of a State program in which significant deficiencies are indicated by such report on the status of complaints under the State procedure under section 454(12)(B); and, as appropriate, provide to the State agency comments, recommendations for additional or alternative corrective actions, and technical assistance; and

"(C) conduct audits, in accordance with the government auditing standards of the United States Comptroller General—

"(i) at least once every 3 years (or more frequently, in the case of a State which fails to meet requirements of this part, or of regulations implementing such requirements, concerning performance standards and reliability of program data) to assess the completeness, reliability, and security of the data, and the accuracy of the reporting systems, used for the calculations of performance indicators specified in subsection (g) and section 458;

"(ii) of the adequacy of financial management of the State program, including assessments of—

"(I) whether Federal and other funds made available to carry out the State program under this part are being appropriately expended, and are properly and fully accounted for; and

"(II) whether collections and disbursements of support payments and program income are carried out correctly and are properly and fully accounted for; and

"(iii) for such other purposes as the Secretary may find necessary;".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to calendar quarters beginning on or after the date one year after enactment of this section.

SEC. 614. AUTOMATED DATA PROCESSING REQUIREMENTS.

"(a) REVISED REQUIREMENTS.—(1) Section 454(16) is amended—

(A) by striking ", at the option of the State,";

(B) by inserting "and operation by the State agency after "for the establishment";

(C) by inserting "meeting the requirements of section 454A" after "information retrieval system";

(D) by striking "in the State and localities thereof, so as (A)" and inserting "so as";

(E) by striking "(i)"; and

(F) by striking "(including" and all that follows and inserting a semicolon.

"(2) Part D of title IV is amended by inserting after section 454 the following new section:

"AUTOMATED DATA PROCESSING

"SEC. 454A. (a) IN GENERAL.—In order to meet the requirements of this section, for purposes of the requirement of section 454(16), a State agency shall have in operation a single statewide automated data processing and information retrieval system which has the capability to perform the tasks specified in this section, and performs such tasks with the frequency and in the manner specified in this part or in regulations or guidelines of the Secretary.

"(b) PROGRAM MANAGEMENT.—The automated system required under this section shall perform such functions as the Secretary may specify relating to management of the program under this part, including—

"(1) controlling and accounting for use of Federal, State, and local funds to carry out such program; and

"(2) maintaining the data necessary to meet Federal reporting requirements on a timely basis.

"(c) CALCULATION OF PERFORMANCE INDICATORS.—In order to enable the Secretary to determine the incentive and penalty adjustments required by sections 452(g) and 458, the State agency shall—

"(1) use the automated system—

"(A) to maintain the requisite data on State performance with respect to paternity establishment and child support enforcement in the State; and

"(B) to calculate the IV-D paternity establishment percentage and overall performance in child support enforcement for the State for each fiscal year; and

"(2) have in place systems controls to ensure the completeness, and reliability of, and ready access to, the data described in paragraph (1)(A), and the accuracy of the calculations described in paragraph (1)(B).

"(d) INFORMATION INTEGRITY AND SECURITY.—The State agency shall have in effect safeguards on the integrity, accuracy, and completeness of, access to, and use of data in the automated system required under this section, which shall include the following (in addition to such other safeguards as the Secretary specifies in regulations):

"(1) POLICIES RESTRICTING ACCESS.—Written policies concerning access to data by State agency personnel, and sharing of data with other persons, which—

"(A) permit access to and use of data only to the extent necessary to carry out program responsibilities;

"(B) specify the data which may be used for particular program purposes, and the personnel permitted access to such data; and

"(C) ensure that data obtained or disclosed for a limited program purpose is not used or redisclosed for another, impermissible purpose.

"(2) SYSTEMS CONTROLS.—Systems controls (such as passwords or blocking of fields) to ensure strict adherence to the policies specified under paragraph (1).

"(3) MONITORING OF ACCESS.—Routine monitoring of access to and use of the automated system, through methods such as audit trails and feedback mechanisms, to guard against and promptly identify unauthorized access or use.

"(4) TRAINING AND INFORMATION.—The State agency shall have in effect procedures to ensure that all personnel (including State and local agency staff and contractors) who may have access to or be required to use sensitive or confidential program data are fully informed of applicable requirements and penalties, and are adequately trained in security procedures.

"(5) PENALTIES.—The State agency shall have in effect administrative penalties (up to and including dismissal from employment) for unauthorized access to, or disclosure or use of, confidential data.".

(3) IMPLEMENTATION TIMETABLE.—Section 454(24) is amended to read as follows:

"(24) provide that the State will have in effect an automated data processing and information retrieval system—

"(A) by October 1, 1995, meeting all requirements of this part which were enacted on or before the date of enactment of the Family Support Act of 1988; and

"(B) by October 1, 1998, meeting all requirements of this part enacted on or before the date of enactment of the Work and Responsibility Act of 1994 (but this provision shall not be construed to alter earlier deadlines specified for elements of such system);".

(b) SPECIAL FEDERAL MATCHING RATE FOR DEVELOPMENT COSTS OF AUTOMATED SYSTEMS.—Section 455(a) is amended—

(1) in paragraph (1)(B)—

(A) by striking "90 percent" and inserting "the percent specified in paragraph (3)";

(B) by striking "so much of"; and

(C) by striking "which the Secretary" and all that follows and inserting ", and"; and

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

"(3)(A) The Secretary shall pay to each State, for each quarter in fiscal year 1995, 90 percent of so much of State expenditures described in subparagraph (1)(B) as the Secretary finds are for a system meeting the requirements specified in section 454(16), or meeting such requirements without regard to clause (D) thereof.

"(B)(i) The Secretary shall pay to each State, for each quarter in fiscal years 1996 through 2000, the percentage specified in clause (ii) of so much of State expenditures described in subparagraph (1)(B) as the Secretary finds are for a system meeting the requirements specified in section 454(16) and 454A, subject to clause (iii).

"(ii) The percentage specified in this clause, for purposes of clause (i), is the higher of—

"(I) 80 percent, or

"(II) the percentage otherwise applicable to Federal payments to the State under subparagraph (A) (as adjusted in pursuant to section 458).

"(iii) Notwithstanding any other provision of this section, the total amount payable by the Secretary with respect to expenditures during fiscal years specified in clause (i) shall not exceed $260,000,000, to be distributed among the States, and to be made available at such time or times over the five-year period, as is provided in regulations issued by the Secretary, taking into account the relative size of State caseloads and the level of automation needed to meet the requirements of this part, and payments under clause (i) shall be made to a State at such times and in such a manner as provided in the advanced planning document approved under section 452(d).".

(c) CONFORMING AMENDMENT.—Section 123(c) of the Family Support Act of 1988 is repealed.

(d) ADDITIONAL PROVISIONS.—For additional provisions of section 454A, as added by subsection (a), see sections 621, 622, and 636 of this Act.

SEC. 615. DIRECTOR OF CSE PROGRAM; TRAINING AND STAFFING.

(a) REPORTING TO SECRETARY.—Section 452(a) is amended, in the matter preceding paragraph (1), by striking "directly".

(b) TRAINING PROGRAM.—Section 452(a)(7) is amended by striking "paternity;" and inserting "paternity, through activities including—

"(A) development of a core curriculum and training standards to be used by States in the development of State-specific training guides; and

"(B) development of a national training program for directors of State programs under this part;".

(c) STATE PLAN REQUIREMENT.—Section 454, as amended by sections 602 and 604, is further amended—

(1) by striking "and" at the end of paragraph (25);

(2) by striking the period at the end of paragraph (26) and inserting "; and"; and

(3) by adding after paragraph (26) the following new paragraph:

(27) provide that the State agency will develop and implement a training program which—

"(A) is consistent with the national training standards and core curriculum developed by the Secretary pursuant to section 452(a)(7), and uses a State-specific training guide incorporating such core curriculum;

"(B) provides for initial and ongoing training of all staff (including State and local agency staff and contractors) of the program under this part, including annual training for case workers and special training when significant changes are made in statutes, regulations, policies, or procedures; and

"(C) may provide (subject to approval by the Secretary) for appropriate training of other persons with responsibilities relating to the implementation of the State program under this part (including staff administering programs under part A, part E, title XIX, and other related and complementary programs; judges and other staff of judicial and administrative tribunals; law enforcement personnel; staff of social services organizations; and the private bar).

(d) STAFFING STUDIES.—(1) SCOPE OF STUDY.—The Secretary of Health and Human Services shall, directly or by contract, conduct studies of the staffing of each State child support enforcement program under title IV-D of the Act. Such studies shall include a review of the staffing needs created by requirements for automated data processing, maintenance of a central case registry, and centralized collections of child support, and of changes in these needs resulting from changes in such requirements.

(2) FREQUENCY OF STUDIES.—The Secretary shall complete the first staffing study required under paragraph (1) by October 1, 1996, and may conduct additional studies subsequently at appropriate intervals.

(3) REPORT TO CONGRESS.—The Secretary shall submit a report to the Congress stating the findings and conclusions of each study conducted under this subsection.

SEC. 616. FUNDING FOR SECRETARIAL ASSISTANCE TO STATE PROGRAMS.

Section 452 is amended by adding at the end the following new subsection:

"(j) FUNDING FOR FEDERAL ACTIVITIES ASSISTING STATE PROGRAMS.—(1) There shall be available to the Secretary, from amounts appropriated for fiscal year 1995 and each succeeding fiscal year for payments to States under this part, the amount specified in paragraph (2) for the costs to the Secretary for—

"(A) information dissemination and technical assistance to States, training of State and Federal staff, staffing studies, and related activities needed to improve programs (including technical assistance concerning State automated systems);

"(B) research, demonstration, and special projects of regional or national significance relating to the operation of State programs under this part; and

"(C) operation of the Federal parent Locator Service under section 453 and the National Welfare Reform Information Clearinghouse under section 453A, to the extent such costs are not recovered through user fees.

"(2) The amount specified in this paragraph for a fiscal year is the amount equal to a percentage of the reduction in Federal payments to States under part A on account of child support (including arrearages) collected in the preceding fiscal year on behalf of children receiving aid under such part A in such preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the third calendar quarter following the end of such preceding fiscal year), equal to—

"(A) 1 percent, for the activities specified in subparagraphs (A) and (B) of paragraph (1); and

"(B) 2 percent, for the activities specified in subparagraph (C) of paragraph (1).".

SEC. 617. DATA COLLECTION AND REPORTS BY THE SECRETARY.

(a) ANNUAL REPORT TO CONGRESS.—(1) Section 452(a)(10)(A) is amended—

(A) by striking "this part;" and inserting "this part, including—"; and

(B) by adding at the end the following indented clauses:

"(i) the total amount of child support payments collected as a result of services furnished during such fiscal year to individuals receiving services under this part;

"(ii) the cost to the States and to the Federal Government of furnishing such services to those individuals; and

"(iii) the number of cases involving families—

"(I) who became ineligible for aid under part A during a month in such fiscal year; and

"(II) with respect to whom a child support payment was received in the same month;".

(2) Section 452(a)(10)(C) is amended—

(A) in the matter preceding clause (i)—

(i) by striking "with the data required under each clause being separately stated for cases" and inserting "separately stated for (1) cases";

(ii) by striking "cases where the child was formerly receiving" and inserting "or formerly received";

(iii) by inserting "or 1912" after "471(a)(17)"; and

(iv) by inserting "(2)" before "all other";

(B) in each of clauses (i) and (ii), by striking ", and the total amount of such obligations";

(C) in clause (iii), by striking "described in" and all that follows and inserting "in which support was collected during the fiscal year;";

(D) by striking clause (iv);

(E) by redesignating clause (v) as clause (vii), and inserting after clause (iii) the following new clauses:

"(iv) the total amount of support collected during such fiscal year and distributed as current support;

"(v) the total amount of support collected during such fiscal year and distributed as arrearages;

"(vi) the total amount of support due and unpaid for all fiscal years; and".

(3) Section 452(a)(10)(G) is amended by striking "on the use of Federal courts and".

(4) Section 452(a)(10) is further amended by striking the matter following the end of subparagraph (I).

(b) DATA COLLECTION AND REPORTING.—Section 469 is amended—

(1) in subsections (a) and (b), to read as follows:

"(a) The Secretary shall collect and maintain, on a fiscal year basis, up-to-date statistics, by State, with respect to services to establish paternity and services to establish child support obligations, the data specified in subsection (b), separately stated, in the case of each such service, with respect to—

"(1) families (or dependent children) receiving aid under plans approved under part A (or E); and

"(2) families not receiving such aid.

"(b) The data referred to in subsection (a) are—

"(1) the number of cases in the caseload of the State agency administering the plan under this part in which such service is needed; and

"(2) the number of such cases in which the service has been provided."; and

(2) in subsection (c), by striking "(a)(2)" and inserting "(b)(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to fiscal year 1995 and succeeding fiscal years.

PART C—LOCATE AND CASE TRACKING

SEC. 621. CENTRAL STATE AND CASE REGISTRY.

Section 454A, as added by section 614, is further amended by adding at the end the following new subsections:

"(e) CENTRAL CASE REGISTRY.—(1) IN GENERAL.—The automated system required under this section shall perform the functions, in accordance with the provisions of this subsection, of a single central registry containing records with respect to each case in which services are being provided by the State agency (including, on and after October 1, 1997, each order specified in section 466(a)(12)), using such standardized date elements (such as names, social security numbers or other uniform identification numbers, dates of birth, and case identification numbers), and containing such other information (such as information on case status)as the Secretary may require.

"(2) PAYMENT RECORDS.—Each case record in the central registry shall include a record of—

"(A) the amount of monthly (or other periodic) support owed under the support order, and other amounts due or overdue (including arrears, interest or late payment penalties, and fees);

"(B) the date on which the support obligation will terminate under such order;

"(C) all child support and related amounts collected (including such amounts as fees, late payment penalties, and interest on arrearages); and

"(D) the distribution of such amounts collected.

"(3) UPDATING AND MONITORING.—The State agency shall promptly establish and maintain, and regularly monitor, case records in the registry required by this subsection, on the basis of—

"(A) information on administrative actions and administrative and judicial proceedings and orders relating to paternity and support;

"(B) information obtained from matches with Federal, State, or local data sources;

"(C) information on support collections and distributions; and

"(D) any other relevant information.

"(f) DATA MATCHES AND OTHER DISCLOSURES OF INFORMATION.—The automated system required under this section shall have the capacity, and be used by the State agency, to extract data at such times, and in such standardized format or formats, as may be required by the Secretary, and to share and match data with, and receive data from, other data bases and data matching services, in order to obtain (or provide) information necessary to enable the State agency (or Secretary or other State or Federal agencies) to carry out responsibilities under this part. Data matching activities of the State agency shall include at least the following:

"(A) NATIONAL CHILD SUPPORT REGISTRY.—Furnish to the National Child Support Registry established under section 453A (and update as necessary, with information including notice of expiration of orders) minimal

information (to be specified by the Secretary) on each child support case in the central case registry.

"(B) FEDERAL PARENT LOCATOR SERVICE.—Exchange data with the Federal Parent Locator Service for the purposes specified in section 453.

"(C) AFDC AND MEDICAID AGENCIES.—Exchange data with State agencies (of the State and of other States) administering the programs under part A and title XIX, as necessary for the performance of State agency responsibilities under this part and under such programs.

"(D) INTRA- AND INTERSTATE DATA MATCHES.—Exchange data with other agencies of the State, agencies of other States, and interstate information networks, as necessary and appropriate to carry out (or assist other States to carry out) the purposes of this part.".

SEC. 622. CENTRALIZED COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.

(a) STATE PLAN REQUIREMENT.—Section 454, as previously amended by sections 601, 605, and 615, is further amended—

(A) by striking "and" at the end of paragraph (26);

(B) by striking the period at the end of paragraph (27) and inserting "; and"; and

(C) by adding after paragraph (27) the following new paragraph:

"(28) provide that the State agency, on and after October 1, 1997—

"(A) will operate a centralized, automated unit for the collection and disbursement of child support under orders being enforced under this part, in accordance with section 454B; and

"(B) will have sufficient State staff (consisting of State employees, and (at State option) contractors reporting directly to the State agency) to monitor and enforce support collections through such centralized unit, including carrying out the automated data processing responsibilities specified in section 454A(g) and to impose, as appropriate in particular cases, the administrative enforcement remedies specified in section 466(c)(1).".

(b) ESTABLISHMENT OF CENTRALIZED COLLECTION UNIT.—Part D of title IV is amended by adding after section 454A the following new section:

"CENTRALIZED COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS

"SEC. 454B. (a) IN GENERAL.—In order to meet the requirement of section 454(28), the State agency must operate a single centralized, automated unit for the collection and disbursement of support payments, coordinated with the automated data system required under section 454A, in accordance with the provisions of this section, which shall be—

"(1) operated directly by the State agency (or by two or more State agencies under a regional cooperative agreement), or by a single contractor responsible directly to the State agency; and

"(2) used for the collection and disbursement (including interstate collection and disbursement) of payments under support orders in all cases being enforced by the State pursuant to section 454(4).

"(b) REQUIRED PROCEDURES.—The centralized collections unit shall use automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, efficient, and economical, for the collection and disbursement of support payments, including procedures—

"(1) for receipt of payments from parents, employers, and other States, and for disbursements to custodial parents and other obligees, the State agency, and the State agencies of other States;

"(2) for accurate identification of payments;

"(3) to ensure prompt disbursement of the custodial parent's share of any payment; and

"(4) to furnish to either parent, upon request, timely information on the current status of support payments.".

(c) USE OF AUTOMATED SYSTEM.—Section 454A, as added by section 614 and amended by section 621, is further amended by adding at the end the following new subsection:

"(g) CENTRALIZED COLLECTION AND DISTRIBUTION OF SUPPORT PAYMENTS.—The automated system required under this section shall be used, to the maximum extent feasible, to assist and facilitate collections and disbursement of support payments through the centralized collections unit operated pursuant to section 454B, through the performance of functions including at a minimum—

"(1) generation of orders and notices to employers (and other debtors) for the withholding of wages (and other income)—

"(A) within two working days after receipt (from the National Directory of New Hires or any other source) of notice of and the income source subject to such withholding; and

"(B) using uniform formats directed by the Secretary;

"(2) ongoing monitoring to promptly identify failures to make timely payment; and

"(3) automatic use of enforcement mechanisms (including mechanisms authorized pursuant to section 466(c)) where payments are not timely made.".

(d) The amendments made by this section shall become effective on October 1, 1997.

SEC. 623. AMENDMENTS CONCERNING INCOME WITHHOLDING.

(a) MANDATORY INCOME WITHHOLDING.—(1) Section 466(a)(1) is amended to read as follows:

"(1) INCOME WITHHOLDING.—(A) UNDER ORDERS ENFORCED UNDER THE STATE PLAN.—Procedures described in subsection (b) for the withholding from income of amounts payable as support in cases subject to enforcement under the State plan.

"(B) UNDER CERTAIN ORDERS PREDATING CHANGE IN REQUIREMENT.—Procedures under which all child support orders issued (or modified) before October 1, 1995, and which are not otherwise subject to withholding under subsection (b), shall become subject to withholding from wages as provided in subsection (b) if arrearages occur, without the need for a judicial or administrative hearing.".

(2) Section 466(a)(8) is repealed.

(3) Section 466(b) is amended—

(A) in the matter preceding paragraph (1), by striking "subsection (a)(1) and inserting "subsection (a)(1)(A)";

(B) in paragraph (5), by striking all that follows "administered by" and inserting "the State through the centralized collections unit established pursuant to section 454B, in accordance with the requirements of such section 454B.";

(C) in paragraph (6)(A)(i)—

(i) by inserting ", in accordance with timetables established by the Secretary," after "must be required"; and

(ii) by striking "to the appropriate agency" and all that follows and inserting "to the State centralized collections unit within 5 working days after the date such amount would (but for this subsection) have been paid or credited to the employee, for distribution in accordance with this part.";

(D) in paragraph (6)(A)(ii), by inserting "be in a standard format prescribed by the Secretary, and" after "shall"; and

(E) in paragraph (6)(D)—

(i) by striking "employer who discharges" and inserting "employer who—(A) discharges";

(ii) by relocating subparagraph (A), as designated, as an indented subparagraph after and below the introductory matter;

(iii) by striking the period at the end; and

(iv) by adding after and below subparagraph (A) the following new subparagraph:

"(B) fails to withhold support from wages, or to pay such amounts to the State centralized collections unit in accordance with this subsection.

(b) CONFORMING AMENDMENT.—Section 466(c) is repealed.

(c) DEFINITION OF TERMS.—The Secretary shall promulgate regulations providing definitions, for purposes of title IV-D of the Act, for the term "income", and for such other terms relating to income withholding under section 466(b) of the Act as the Secretary may find it necessary or advisable to define.

SEC. 624. LOCATOR INFORMATION FROM INTERSTATE NETWORKS AND LABOR UNIONS.

STATE LAW REQUIREMENT.—Section 466(a), as amended by section 623, is amended by adding after paragraph (7) the following new paragraph:

"(8) LOCATOR INFORMATION.—(A) INTERSTATE NETWORKS.—Procedures ensuring that the State will neither provide funding for, nor use for any purpose (including any purpose unrelated to the purposes of this part), any automated interstate network or system used to locate individuals—

"(i) for purposes relating to the use of motor vehicles; or

"(ii) providing information for law enforcement purposes (where child support enforcement agencies are otherwise allowed access by State and Federal law),

unless all Federal and State agencies administering programs under this part (including the entities established under sections 453 and 453A) have access to information in such system or network to the same extent as any other user of such system or network.

"(B) LABOR UNIONS.—Procedures under which labor unions, and their hiring halls, must furnish to the State agency, upon request, with respect to any union member against whom paternity or a support obligation is sought to be established or enforced, such information as the union or hiring hall may have on such member's residential address and telephone number, employer's name, address, and telephone number, and wages and medical insurance benefits.".

SEC. 625. NATIONAL WELFARE REFORM INFORMATION CLEARINGHOUSE.

(a) Part D of title IV is amended by adding after section 453 the following new section:

"NATIONAL WELFARE REFORM INFORMATION CLEARINGHOUSE

"SEC. 453A. (a)(1) In order to assist States in administering their State plans under this part and parts A, F, and G, and for the other purposes specified in this section, the Secretary shall establish and operate a National Welfare Reform Information Clearinghouse, performing the functions and meeting the requirements specified in this section, and containing the registries and directory specified in paragraph (2).

"(2) COMPONENTS SPECIFIED.—The registries and directory specified in this paragraph, for purposes of paragraph (1), are:

"(A) the National Child Support Registry established pursuant to subsection (b);

"(B) the National Directory of New Hires established pursuant to subsection (c);

"(C) the Federal Parent Locater Service established pursuant to section 453; and

"(D) the National Welfare Receipt Registry established pursuant section 411.

"(3) USED FOR TERM.—For purposes of this section, references to registries maintained under this section shall be considered to include the National Directory of New Hires and the Federal Parent Locator Service.

"(b) NATIONAL CHILD SUPPORT REGISTRY.—(1) IN GENERAL.—The Secretary shall establish by October 1, 1997, and maintain thereafter, an automated registry, to be known as the National Child Support Registry, containing minimal information (in accordance with paragraph (2)) on each case in each State central case registry maintained pursuant to section 454A(e), as furnished (and regularly updated), pursuant to section 454A(f), by State agencies administering programs under this part.

"(2) CASE INFORMATION.—The case information required to be furnished pursuant to this subsection, as specified by the Secretary, shall include sufficient information (including names, social security numbers or other uniform identification numbers, and State case identification numbers) to identify the individuals who owe or are owed support (or with respect to or on behalf of whom support obligations are sought to be established), and the State or States which have established or modified, or are enforcing or seeking to establish, such an order.

"(c) NATIONAL DIRECTORY OF NEW HIRES.—(1) IN GENERAL.—The Secretary shall establish by October 1, 1997, and maintain thereafter, an automated directory, to be known as the National Directory of New Hires, containing—

"(A) information supplied by employers on each newly hired individual, in which paragraph (2); and

"(B) information supplied by State agencies administered State unemployment compensation laws, in accordance with paragraph (3).

"(2) EMPLOYER INFORMATION.—(A) INFORMATION REQUIRED.—Subject to subparagraph (D), each employer shall furnish to the Secretary, for inclusion in the directory under this subsection, not later than 10 days after the date (on or after October 1, 1997) on which the employer hires a new employee (as defined in subparagraph (C)), a report containing the name, date of birth social security number of each employee, and the employer identification number of the employer.

"(B) REPORTING METHOD AND FORMAT.—The Secretary shall provide for transmission of the reports required under subparagraph (A) using formats and methods which minimize the burden on employers, which shall include—

"(i) automated or electronic transmission of such reports;

"(ii) transmission by regular mail; and

"(iii) transmission of a copy of the form required for purposes of compliance with section 3402 of the Internal Revenue Code of 1986.

"(C) EMPLOYEE DEFINED.—For purposes of this paragraph, the term 'employee'—

"(i) means (subject to clause (ii)) any individual subject to the requirement of section 3402(f)(2) of the Internal Revenue Code of 1986; and

"(ii) does not include an employee of a Federal or State agency performing law enforcement functions, or of a Federal agency performing intelligence or counterintelligence functions, where the head of such agency has determined that reporting pursuant to this paragraph with respect to such employee could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

"(D) PAPER REDUCTION REQUIREMENT.—As required by the information resources management policies published by the Director of the Office of Management and Budget pursuant to 44 U.S.C. 3504(b)(1), the Secretary, in order to minimize the cost and reporting burden on employers, shall not require reporting pursuant to this paragraph if an alternative reporting mechanism can be developed that either relies on existing Federal or State reporting or enables the Secretary to collect the needed information in a more cost-effective and equally expeditious manner, taking into account the reporting costs on employers.

"(E) CIVIL MONEY PENALTY ON NONCOMPLYING EMPLOYERS.—(i) Any employer that fails to make a timely report in accordance with this paragraph with respect to an individual shall be subject to a civil money penalty, for each calendar year in which the failure occurs, of the lesser of $500 or 1 percent of the wages or other compensation paid by such employer to such individual during such calendar year.

"(ii) Subject to clause (iii), the provisions of section 1128A (other than subsections (a) and (b) thereof) shall apply to a civil money penalty under clause (i) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

"(iii) Any employer with respect to whom a penalty under this paragraph is upheld after an administrative hearing shall be liable to pay all costs of the Secretary with respect to such hearing.

"(3) EMPLOYMENT SECURITY INFORMATION.—(A) REPORTING REQUIREMENT.—Each State agency administering a State unemployment compensation law approved by the Secretary of Labor under the Federal Unemployment Tax Act shall furnish to the Secretary of Health and Human Services extracts of the reports to the Secretary of Labor concerning the wages and unemployment compensation paid to individuals required under section 303(a)(6), in accordance with subparagraph (B).

"(B) MANNER OF COMPLIANCE.—The extracts required under subparagraph (A) shall be furnished to the Secretary of Health and Human Services on a quarterly basis, with respect to calendar quarters beginning on and after October 1, 1995, by such dates, in such format, and containing such information as required by that Secretary in regulations.

"(d) DATA MATCHES AND OTHER DISCLOSURES.—(1) VERIFICATION BY SOCIAL SECURITY ADMINISTRATION.—(A) The Secretary shall transmit data on individuals and employers in the registries maintained under this section to the Social Security Administration to the extent necessary for verification in accordance with subparagraph (B).

"(B) The Social Security Administration shall verify the accuracy of, correct or supply to the extent necessary and feasible, and report to the Secretary, the following information in data supplied by the Secretary pursuant to subparagraph (A):

"(i) the name, social security number, and birth date of each individual; and

"(ii) the employer identification number of each employer.

"(2) CHILD SUPPORT LOCATOR MATCHES.—For the purpose of locating individuals for purposes of paternity establishment and establishment and enforcement of child support, the Secretary shall—

"(A) match data in the New Hire Directory against data in the Child Support Registry not less often than every 2 working days; and

"(B) report information obtained from such a match to concerned State agencies operating programs under this part not later than 2 working days after such match.

"(3) DATA MATCHES AND DISCLOSURES OF DATA IN ALL REGISTRIES.—(A) FOR TITLE IV PROGRAM PURPOSES.—The Secretary shall—

"(i) perform matches of data in each registry maintained under this section against data in each other such registry (other than the matches required pursuant to paragraph (1)), and report information resulting from such matches to State agencies operating programs under this part and parts A, F, and G; and

"(ii) disclose data in such registries to such State agencies—

to the extent, and with the frequency, that the Secretary determines to be effective in assisting such States to carry out their responsibilities under such programs.

"(B) FOR INCOME ELIGIBILITY VERIFICATION SYSTEM.—The Secretary shall disclose data in the registries maintained under this section to the programs specified in section 1137(b), to the extent necessary to enable such programs to meet requirements for an income eligibility verification system under such section 1137.

"(c) TO SOCIAL SECURITY ADMINISTRATION.—The Secretary shall disclose data in the registries maintained under this section to the Social Security Administration.

"(i) for the purpose of determining the accuracy of payments under the supplemental security income program under title XVI; or

"(ii) for use in connection with benefits under title II.

"(4) OTHER DISCLOSURES OF NEW HIRE DATA.—The Secretary shall disclose data in the New Hire Directory under subsection (c)—

"(A) to the Secretary of the Treasury for purposes directly connected with—

"(i) the administration of the earned income tax credit under section 32 of the Internal Revenue Code of 1986, or the advance payment of such credit under section 3507 of such Code; or

"(ii) verification of a claim with respect to employment in an individual tax return; and

"(B) to State agencies operating employment security and workers compensation programs, for the purpose of assisting such agencies to determine the allowability of claims for benefits under such programs.

"(5) DISCLOSURES FOR RESEARCH PURPOSES.—The Secretary is authorized to disclose data in registries maintained under this section for research purposes found by the Secretary to be likely to contribute to achieving the purposes of this part or part A, F, or G, but without personal identifiers.

"(f) FEES.—(1) FOR SSA VERIFICATION.—The Secretary shall reimburse the Commissioner of Social Security, at a rate negotiated between the Secretary and the Commissioner, the costs incurred by the Commissioner in performing the verification services specified in subsection (d).

"(2) FOR INFORMATION FROM SESAS.—The Secretary shall reimburse costs incurred by State employment security agencies in furnishing data as required by subsection (c)(3), at rates which the Secretary determines to be reasonable (which rates shall not include payment for the costs of obtaining, compiling, or maintaining such data).

"(3) FOR INFORMATION FURNISHED TO STATE AND FEDERAL AGENCIES.—State and Federal

agencies receiving data or information from the Secretary pursuant to this section shall reimburse the costs incurred by the Secretary in furnishing such data or information, at rates which the Secretary determines to be reasonable (which rates shall include payment for the costs of obtaining, verifying, maintaining, and matching such data or information).

"(g) RESTRICTION ON DISCLOSURE AND USE.—Data in registries maintained pursuant to this section, and information resulting from matches using data maintained in such registries, shall not be used or disclosed except as specifically provided in this section.

"(h) RETENTION OF DATA.—Data in registries maintained pursuant to this title, and data resulting from matches performed pursuant to this section, shall be retained for such period (determined by the Secretary) as appropriate for the data uses specified in this section.

"(i) INFORMATION INTEGRITY AND SECURITY.—The Secretary shall establish and implement safeguards with respect to the entities established under this section designed to

"(1) ensure the accuracy and completeness of information in the system; and

"(2) restrict access to confidential information in the registries to authorized persons, and restrict use of such information to authorized purposes.

"(j) LIMIT ON LIABILITY.—The Secretary shall not be liable to either a State or an individual for inaccurate information provided to a registry maintained under this section and disclosed by the Secretary in accordance with this section.

(b) CONFORMING AMENDMENTS.—

(1) TO TITLE IV-D.—Section 454(8) is amended—

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

(B) in subparagraph (B), to read as follows:

"(B) the Federal Parent Locator Service established under section 453; and"; and

(C) by adding at the end the following new subparagraph:

"(C) the National Welfare Reform Information Clearinghouse established under section 453A;".

(2) TO FEDERAL UNEMPLOYMENT TAX ACT.—26 U.S.C. 3304 is amended in paragraph (16)—

(A) by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Secretary of Health and Human Services";

(B) in subparagraph (B), by striking "such information" and all that follows and inserting "information furnished under subparagraph (A) or (B) is used only for the purposes authorized under such subparagraph;";

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

(D) by redesignating subparagraph (B) as subparagraph (C); and

(E) by inserting after subparagraph (A) the following new subparagraph:

"(B) wage and unemployment compensation information contained in the records of such agency shall be furnished to the Secretary of Health and Human Services (in accordance with regulations promulgated by such Secretary) as necessary for the purposes of the National Directory of New Hires established under section 453(b) of the Social Security Act, and".

(3) TO STATE GRANT PROGRAM UNDER TITLE III OF THE SOCIAL SECURITY ACT.—Section 303(a) is amended—

(A) by striking "and" at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting "; and"; and

(C) by adding after paragraph (9) the following new paragraph:

"(10) The making of quarterly electronic reports, at such dates, in such format, and containing such information, as required by the Secretary of Health and Human Services under section 453A(b)(3), and compliance with such provisions as such Secretary may find necessary to ensure the correctness and verification of such reports.".

SEC. 626. EXPANDED LOCATE AUTHORITY.

(a) EXPANDED AUTHORITY TO LOCATE INDIVIDUALS AND ASSETS.—Section 453 is amended—

(1) in subsection (a), by striking all that follows "subsection (c))" and inserting the following:

", for the purpose of establishing, setting the amount of, or enforcing child support obligations—

"(1) information on, or facilitating the discovery of, the location of any individual—

"(A) who is under an obligation to pay child support;

"(B) against whom such an obligation is sought; or

"(C) to whom such an obligation is owed, including such individual's social security number (or numbers), most recent residential address, and the name, address, and employer identification number of such individual's employer; and

"(2) information on the individual's wages (or other income) from, and benefits of, employment (including rights to or enrollment in group health care coverage); and

"(3) information on the type, status, location, and amount of any assets of, or debts owed by or to, any such individual."; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "social security" and all that follows through "absent parent" and inserting "information specified in subsection (a)"; and

(B) in paragraph (2), by inserting before the period ", or from any consumer reporting agency (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))";

(3) in subsection (e)(1), by inserting before the period ", or by consumer reporting agencies".

(b) REIMBURSEMENT FOR DATA FROM FEDERAL AGENCIES.—Section 453(e)(2) is amended in the fourth sentence by inserting before the period "in an amount which the Secretary determines to be reasonable payment for the data exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the data)".

(c) ACCESS TO CONSUMER REPORTS UNDER FAIR CREDIT REPORTING ACT.—(1) Section 608 of the Fair Credit Reporting Act (15 U.S.C. 1681f) is amended—

(A) by striking ", limited to" and inserting "to a governmental agency (including the entire consumer report, in the case of a Federal, State, or local agency administering a program under part D of title IV of the Social Security Act, and limited to"; and

(B) by striking "employment, to a governmental agency" and inserting "employment, in the case of any other governmental agency)".

(2) REIMBURSEMENT FOR REPORTS BY STATE AGENCIES AND CREDIT BUREAUS.—Section 453 is amended by adding at the end the following new subsection:

"(g) The Secretary is authorized to reimburse costs to State agencies and consumer credit reporting agencies the costs incurred by such entities in furnishing information requested by the Secretary pursuant to this section in an amount which the Secretary determines to be reasonable payment for the data exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the data).".

(d) DISCLOSURE OF TAX RETURN INFORMATION.—(1) Section 6103(1)(6)(A)(ii) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(1)(6)(A)(ii) is amended by striking ", but only if" and all that follows and inserting a period.

(2) Section 6103(1)(8)(A) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(1)(8)(A)) is amended by inserting "Federal," before "State or local".

(e) TECHNICAL AMENDMENTS.—

(1) Sections 452(a)(9), 453(a), 453(b), 463(a), and 463(e) are each amended by inserting "Federal" before "Parent" each place it appears.

(2) Section 453 is amended in the heading by adding "FEDERAL" before "PARENT".

SEC. 627. STUDIES AND DEMONSTRATIONS CONCERNING LOCATOR ACTIVITIES.

(a) STUDIES.—The Secretary of Health and Human Services shall study, and report and make recommendations to the Congress concerning—

(1) whether access to information available through the Federal Parent Locator Service under section 453 of the Social Security Act should be afforded to noncustodial parents seeking to locate their children and, if so, whether custodial parents at risk of harm by such noncustodial parents could be adequately protected; and

(2) the feasibility, implications, and costs of establishing and operating electronic data interchanges between such Service and major consumer credit reporting bureaus.

(b) DEMONSTRATIONS.—The Secretary shall make grants to States, from funds available under section 452(j) of the Social Security Act, for demonstrations designed to test the utility of automated data exchanges with State data bases that have the potential to improve the States' effectiveness in locating individuals and resources for purposes of establishing paternity and establishing and enforcing support obligations.

SEC. 628. USE OF SOCIAL SECURITY NUMBERS.

(a) STATE LAW REQUIREMENT.—Section 466(a) is amended by adding at the end the following new paragraph:

"(13) SOCIAL SECURITY NUMBERS REQUIRED.—Procedures requiring the recording of social security numbers—

"(A) of both parties on marriage licenses and divorce decrees; and

"(B) of both parents, on birth records and child support and paternity orders.".

(b) CLARIFICATION OF FEDERAL POLICY.—Section 205(c)(2)(C)(ii) is amended by striking the third sentence and inserting "This clause shall not be considered to authorize disclosure of such numbers except as provided in the preceding sentence.".

PART D—STREAMLINING AND UNIFORMITY OF PROCEDURES

SEC. 635. ADOPTION OF UNIFORM STATE LAWS.

(a) Section 466(a) is amended by adding at the end the following new paragraph:

"(14) INTERSTATE ENFORCEMENT.—(A) ADOPTION OF UIFSA.—Procedures under which the State adopts in its entirety (with the modifications and additions specified in this paragraph) not later than January 1, 1996, and uses on and after such date, the Uniform Interstate Family Support Act, as approved by the National Conference of Commissioners on Uniform State Laws in August, 1992.

"(B) EXPANDED APPLICATION OF UIFSA.—The State law adopted pursuant to subparagraph (A) shall be applied to any case—

"(i) involving an order established or modified in one State and for which a subsequent modification is sought in another State; or

"(ii) in which interstate activity is required to enforce an order.

"(C) LONG-ARM JURISDICTION, BASED ON RESIDENCE OF CHILD.—The State law adopted pursuant to subparagraph (A) shall presume that, in the case where a child meets the criteria for residence in the State, a tribunal of the State having jurisdiction over such child has jurisdiction over both parents of such child, if parentage has been legally established or acknowledged, or may be presumed under the laws of the State.

"(D) JURISDICTION TO MODIFY ORDERS.—For purposes of the State law adopted pursuant to subparagraph (A), section 611(a)(1) of such Uniform Act shall be amended to read as follows:

"(1) the following requirements are met:

"(i) the child, the individual obligee, and the obligor—

"'(I) do not reside in the issuing State; and

"'(II) either reside in this State or are subject to the jurisdiction of this State pursuant to section 201; and

"'(ii) (in any case where another State is exercising or seeks to exercise jurisdiction to modify the order) the conditions of section 204 are met to the same extent as required for proceedings to establish orders; or'.

"(E) PARTIES' OPTION CONCERNING JURISDICTION.—The State laws adopted pursuant to subparagraph (A) shall allow parties, by agreement, to permit a State that issued an order to retain jurisdiction which the State would otherwise lose under the provisions of such law.;

"(F) SERVICE OF PROCESS.—The State law adopted pursuant to subparagraph (A) shall recognize as valid, for purposes of any proceeding subject to such State law, service of process upon persons in the State (and proof of such service) by any means acceptable in another State which is the initiating or responding State in such proceeding.

"(G) COOPERATION BY EMPLOYERS.—The State law adopted pursuant to subparagraph (A) shall provide for the use of procedures (including sanctions for noncompliance) under which all entities in the State (including for-profit, nonprofit, and governmental employers) are required to provide promptly, in response to a request by the State agency of that or any other State administering a program under this part, information on the employment, compensation, and benefits of any individual employed by such entity as an employee or contractor.".

(b) EXPEDITED APPEAL OF CONSTITUTIONAL CHALLENGE.—(1) An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order issued by a United States district court ruling upon the constitutionality of section 466(a)(14)(C) of the Act, as added by subsection (a).

(2) The Supreme Court shall, if it has not previously ruled on the question, accept jurisdiction over, and advance on the docket, and expedite to the greatest extent possible, such appeal. All cases raising such question shall be consolidated to the maximum extent permissible under applicable rules of civil procedure.

SEC. 636. STATE LAWS PROVIDING EXPEDITED PROCEDURES.

(a) STATE LAW REQUIREMENTS.—Section 466 is amended—

(1) in subsection (a)(2), in the first sentence, to read as follows: "Expedited administrative and judicial procedures (including the procedures specified in subsection (c)) for establishing paternity and for establishing, modifying, and enforcing support obligations."; and

(2) by adding after subsection (b) the following new subsection:

"(c) EXPEDITED PROCEDURES.—(1) ADMINISTRATIVE ACTION BY STATE AGENCY.—Procedures which give the State agency the authority (and recognize and enforce the authority of State agencies of other States), without the necessity of obtaining an order from any other judicial or administrative tribunal (but subject to due process safeguards, including (as appropriate) requirements for notice, opportunity to contest the action, and opportunity for an appeal on the record to an independent administrative or judicial tribunal), to take the following actions relating to establishment or enforcement of orders:

"(A) ESTABLISH OR MODIFY SUPPORT AMOUNT.—To establish the amount of support awards in all cases in which services are being provided under this part, and to modify the amount of such awards under all orders included in the central case registry established under section 454A(e) (including orders entered by a court), in accordance with the guidelines established under section 467.

"(B) GENETIC TESTING.—To order genetic testing for the purpose of paternity establishment as provided in section 466(a)(5).

"(C) DEFAULT ORDERS.—To enter a default order, upon a showing of service of process and any additional showing required by State law—

"(i) establishing paternity, in the case of any putative father who refuses to submit to genetic testing; and

"(ii) establishing or modifying a support obligation, in the case of a parent (or other obligor or obligee) who fails to respond to notice to appear at a proceeding for such purpose.

"(D) SUBPOENAS.—To subpoena any financial or other information needed to establish, modify, or enforce an order, and to sanction failure to respond to any such subpoena.

"(E) ACCESS TO PERSONAL AND FINANCIAL INFORMATION.—To obtain access, subject to safeguards on privacy and information security, to the following records (including automated access, in the case of records maintained in automated data bases):

"(i) records of other State and local government agencies, including:

"(I) vital statistics (including records of marriage, birth, and divorce);

"(II) State and local tax and revenue records (including information on residence address, employer, income and assets);

"(III) records concerning real and titled personal property;

"(IV) records of occupational and professional licenses, and records concerning the ownership and control of corporations, partnerships, and other business entities;

"(V) employment security records;

"(VI) records of agencies administering public assistance programs;

"(VII) records of the motor vehicle department; and

"(VIII) corrections records; and "(ii) certain records held by private entities, including—

"(I) customer records of public utilities and cable television companies; and

"(II) information (including information on assets and liabilities) on individuals who owe or are owed support (or against or with respect to whom a support obligation is sought) held by financial institutions (subjection to limitations or liability of such entities arising from affording such access).

"(F) INCOME WITHHOLDING.—To order income withholding in accordance with section 466(a)(1) and (b).

"(G) CHANGE IN PAYEE.—(In cases where support is subject to an assignment under section 402(a)(26), 471(a)(17), or 1912, or to a requirement to pay through the centralized collections unit under section 454B) upon providing notice to obligor and obligee, to direct the obligor or other payor to change the payee to the appropriate government entity.

"(H) SECURE ASSETS TO SATISFY ARREARAGES.—For the purpose of securing overdue support—

"(i) to intercept and seize any periodic or lumpsum payment to the obligor by or through a State or local government agency, including—

"(I) unemployment compensation, workers' compensation, and other benefits;

"(II) judgments and settlements in cases under the jurisdiction of the State or local government; and

"(III) lottery winnings;

"(ii) to attach and seize assets of the obligor held by financial institutions;

"(iii) to attach public and private retirement funds in appropriate cases, as determined by the Secretary; and

"(iv) to impose liens in accordance with paragraph (a)(4) and, in appropriate cases, to force sale of property and distribution of proceeds.

"(I) INCREASE MONTHLY PAYMENTS.—For the purpose of securing overdue support, to increase the amount of monthly support payments to include amounts for arrearages (subject to such conditions or restrictions as the State may provide).

"(J) SUSPENSION OF DRIVERS' LICENSES.—To suspend drivers' licenses of individuals owing past-due support, in accordance with subsection (a)(16).

"(2) SUBSTANTIVE AND PROCEDURAL RULES.—The expedited procedures required under subsection (a)(2) shall include the following rules and authority, applicable with respect to all proceedings to established paternity or to establish, modify, or enforce support orders:

"(A) LOCATOR INFORMATION; PRESUMPTIONS CONCERNING NOTICE.—Procedures under which—

"(i) the parties to any paternity or child support proceedings are required (subject to privacy safeguards) to file with the tribunal before entry of an order, and to update as appropriate, information on location and identity (including social security number, residential and mailing addresses, telephone number, driver's license number, and name, address, and telephone number of employer); and

"(ii) in any subsequent child support enforcement action between the same parties, the tribunal shall be authorized, upon sufficient showing that deligent effort has been made to ascertain such a party's current location, to deem due process requirements for notice and service of process to be met, with respect to such party, by delivery to the most recent residential or employer address so filed pursuant to clause (i).

"(B) STATEWIDE JURISDICTION.—Procedures under which—

"(i) the State agency and any administrative or judicial tribunal with authority to hear child support and paternity cases exerts

statewide jurisdiction over the parties, and orders issued in such cases have statewide effect; and

"(ii) (in the case of a State in which orders in such cases are issued by local jurisdictions) a case may be transferred between jurisdictions in the State without need for any additional filing by the petitioner, or service of process upon the respondent, to retain jurisdiction over the parties.".

(c) EXCEPTIONS FROM STATE LAW REQUIREMENTS.—Section 466(d) is amended—

(1) by striking "(d) If" and inserting "(d) EXEMPTIONS FROM REQUIREMENTS.—(1) IN GENERAL.—Subject to paragraph (2), if"; and

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

"(2) NON-EXEMPT REQUIREMENTS.—The Secretary shall not grant an exemption from the requirements of—

"(A) subsection (a)(5) (concerning procedures for paternity establishment);

"(B) subsection (a)(10) (concerning modification of orders);

"(C) subsection (a)(12) (concerning recording of orders in the central State case registry);

"(D) subsection (a)(13) (concerning recording of social security numbers);

"(E) subsection (a)(14) (concerning interstate enforcement); or

"(F) subsection (c) (concerning expedited procedures), other than paragraph (1)(A) thereof (concerning establishment or modification of support amount).".

(d) AUTOMATION OF STATE AGENCY FUNCTIONS.—Section 454A, as added by section 614 and amended by sections 621 and 622, is further amended by adding at the end the following new subsection:

"(h) EXPEDITED ADMINISTRATIVE PROCEDURES.—The automated system required under this section shall be used, to the maximum extent feasible, to implement the expedited administrative procedures required under section 466(c).".

PART E—PATERNITY ESTABLISHMENT

SEC. 640. STATE LAWS CONCERNING PATERNITY ESTABLISHMENT.

(a) STATE LAWS REQUIRED.—Section 466(a)(5) is amended—

(1) by striking "(5)" and insert "(5) PROCEDURES CONCERNING PATERNITY ESTABLISHMENT.—

(2) in subparagraph (A)—

(A) by striking "(A)" and inserting "(A) ESTABLISHMENT PROCESS AVAILABLE FROM BEFORE BIRTH UNTIL AGE EIGHTEEN.—";

(B) by indenting clause (ii) an additional unit of indentation from the left margin; and

(C) by adding after and below clause (ii) the following new clause:

"(iii) Procedures which permit the initiation of proceedings to establish paternity before the birth of the child concerned.";

(3) in subparagraph (B)—

(A) by striking "(B)" and inserting "(B) PROCEDURES CONCERNING GENETIC TESTING.—(i)";

(B) in clause (i), as redesignated, by inserting before the period ", where such request is supported by a sworn statement by such party setting forth facts establishing a reasonable possibility of the requisite sexual contact";

(C) by inserting after and below clause (i) (as redesignated) the following new clause:

"(ii) Procedures which require the State agency, in any case in which such agency orders genetic testing—

"(I) to pay costs of such tests, subject to recoupment (where the State so elects) from the putative father if paternity is established; and

"(II) to obtain additional testing in any case where an original test result is disputed, upon request and advance payment by the disputing party.";

(4) in subparagraph (C), to read as follows:

"(C) VOLUNTARY ACKNOWLEDGMENT PROCEDURE.—Procedures for a simple civil process for voluntarily acknowledging paternity under which—

"(i) the benefits, rights and responsibilities of acknowledging paternity are explained to unwed parents;

"(ii) due process safeguards are afforded; and

"(iii) hospitals and other health care facilities providing inpatient or outpatient maternity and pediatric services are required, as a condition of participation in the State program under title XIX—

"(I) to explain to unwed parents the matters specified in clause (i);

"(II) to make available the voluntary acknowledgment procedure required under this subparagraph; and

"(III) (in the case of hospitals providing maternity services) to have facilities for obtaining blood or other genetic samples from the mother, putative father, and child for genetic testing; to inform the mother and putative father of the availability of such testing (at their expense); and to obtain such samples upon request of both such individuals;";

(5) in subparagraphs (D) and (E), to read as follows:

"(D) LEGAL STATUS OF ACKNOWLEDGMENT.—Procedures under which—

"(i) a voluntary acknowledgment of paternity creates, at State option, either—

"(I) a conclusive presumption of paternity, or

"(II) a rebuttable presumption which becomes a conclusive presumption within one year, unless rebutted or invalidated by an intervening determination which reaches a contrary conclusion;

"(ii) (at State option), notwithstanding clause (i), upon the request of a party, a determination of paternity based on an acknowledgment may be vacated on the basis of new evidence, the existence of fraud, or the best interests of the child; and

"(iii) a voluntary acknowledgment of paternity is admissible as evidence of paternity, and as a basis for seeking a support order, without requiring any further proceedings to establish paternity.

"(E) BAR ON ACKNOWLEDGMENT RATIFICATION PROCEEDINGS.—Procedures under which no judicial or administrative proceedings are required or permitted to ratify an unchallenged acknowledgment of paternity.";

(6) in subparagraph (F), to read as follows:

"(F) ADMISSIBILITY OF GENETIC TESTING RESULTS.—Procedures—

"(i) requiring that the State admit into evidence, for purposes of establishing paternity, results of any genetic test that is—

"(I) of a type generally acknowledged, by accreditation bodies designated by the Secretary, as reliable evidence of paternity; and

"(II) performed by a laboratory approved by such an accreditation body;

"(ii) that any objection to genetic testing results must be made in writing not later than a specified number of days before any hearing at which such results may be introduced into evidence (or, at State option, not later than a specified number of days after receipt of such results); and

"(iii) that, if no objection is made, the test results are admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy."; and

"(7) by adding after subparagraph (H) the following new paragraphs:

"(I) NO RIGHT TO JURY TRIAL.—Procedures providing that the parties to an action to establish paternity are not entitled to jury trial.

"(J) TEMPORARY SUPPORT ORDER BASED ON PROBABLE PATERNITY IN CONTESTED CASES.—Procedures which required that a temporary order be issued, upon motion by a party, requiring the provision of child support pending an administrative or judicial determination of parentage, where there is clear and convincing evidence of paternity (on the basis of genetic tests or other evidence).

"(K) PROOF OF CERTAIN SUPPORT AND PATERNITY ESTABLISHMENT COSTS.—Procedures under which bills for pregnancy, childbirth, and genetic testing are admissible as evidence without requiring third-party foundation testimony, and shall constitute prima facie evidence of amounts incurred for such services and testing on behalf of the child.

"(L) WAIVER OF STATE DEBTS FOR COOPERATION.—Procedures under which the tribunal establishing paternity and support has discretion to waive rights to all or part of amounts owed to the State (but not to the mother) for costs related to pregnancy, childbirth, and genetic testing and for public assistance paid to the family where the father cooperates or acknowledges paternity before or after genetic testing.

"(M) STANDING OF PUTATIVE FATHERS.—Procedures ensuring that the putative father has a reasonable opportunity to initiate a paternity action.".

(b) TECHNICAL AMENDMENT.—Section 468 is amended by striking "a simple civil process for voluntary acknowledging paternity and".

SEC. 641. OUTREACH FOR VOLUNTARY PATERNITY ESTABLISHMENT.

(a) STATE PLAN REQUIREMENT.—Section 454(23), as amended by section 606, is further amended by adding at the end the following new subparagraph:

"(C) publicize the availability and encourage the use of procedures for voluntary establishment of paternity and child support through a variety of means, which—

"(i) include distribution of written materials at health care facilities (including hospitals and clinics), and other locations such as schools;

"(ii) may include pre-natal programs to educate expectant couples on individual and joint rights and responsibilities with respect to paternity (and may require all expectant recipients of assistance under part A to participate in such pre-natal programs, as an element of cooperation with efforts to establish paternity and child support);

"(iii) include, with respect to each child discharged from a hospital after birth for whom paternity or child support has not been established, reasonable follow-up efforts (including at least one contact of each parent whose whereabouts are known, except where there is reason to believe such follow-up efforts would put mother or child at risk), providing—

"(I) in the case of a child for whom paternity has not been established, information on the benefits of and procedures for establishing paternity; and

"(II) in the case of a child for whom paternity has been established but child support has not been established, information on the benefits of and procedures for establishing a child support order, and an application for child support services;".

(b) ENHANCED FEDERAL MATCHING.—Section 455(a)(1)(C) is amended—

(1) by inserting "(i)" before "laboratory costs", and

(2) by inserting before the semicolon ", and (ii) costs of outreach programs designed to encourage voluntary acknowledgment of paternity".

(c) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall become effective October 1, 1996.

(2) The amendments made by subsection (b) shall be effective with respect to calendar quarters beginning on and after October 1, 1995.

SEC. 642. PENALTY FOR FAILURE TO ESTABLISH PATERNITY PROMPTLY.

Section 403 is amended—

(1) in subsection (a), as amended by section 612(e), by striking "subsection (h)" and inserting "subsections (h) and (i)—"; and

(2) by adding after subsection (h) the following new subsection:

"(i) PENALTY FOR FAILURE TO ESTABLISH PATERNITY PROMPTLY.—(1) IN GENERAL.—The amounts otherwise payable to a State under subsection (a) for any calendar quarter beginning 10 months or more after enactment of this subsection shall be reduced by an amount, determined pursuant to regulations in accordance with paragraph (2), for certain children for whom paternity has not been established.

"(2) REDUCTION FORMULA.—The Secretary shall promulgate regulations specifying the formula for the reduction required under this subsection, which formula shall provide for a reduction in Federal matching payments to a State under this section by an amount equal to the product of—

"(A) the number (after allowing for the tolerance level established under paragraph (3)) of children born on or after the date 10 months after enactment of this provision who are receiving aid under the State plan under part A, whose custodial relatives have, throughout the preceding 12-month period, complied with the cooperation requirements specified in section 454(25)(D), but for whom paternity has not been established;

"(B) the average monthly assistance payment under the State plan under this part; and

"(C) the Federal matching rate applicable to such assistance payment.

"(3) TOLERANCE LEVEL.—(A) The tolerance level, for purposes of paragraph (2)(A), shall not be higher than the percentage specified in subparagraph (B) of children in the State described in paragraph (1), and may decrease over time to make allowance for a State's inability to establish paternity in all cases.

"(B) The percentage specified in this paragraph shall be 25 percent for fiscal years 1997 and 1998, 20 percent for fiscal years 1999 and 2000, 15 percent for fiscal years 2001 and 2002, and 10 percent for fiscal year 2003 and each succeeding fiscal year.".

SEC. 643. INCENTIVES TO PARENTS TO ESTABLISH PATERNITY.

(a) OPTIONAL STATE ACTIVITIES.—Section 455 is amended by adding at the end the following new subsection:

"(f) PATERNITY ESTABLISHMENT INCENTIVES TO FAMILIES.—(1) The Secretary, in accordance with regulations, may approve proposals by States to amend State plans under this part to provide for incentive payments to families to encourage paternity establishment.

"(2) Federal financial participation shall be available in accordance with subsection (a) for expenditures by a State pursuant to a plan amendment approved under paragraph (1).

(b) DEMONSTRATIONS.—(1) Projects Authorized.—The Secretary shall authorize up to 3 States to conduct demonstrations providing financial incentives to families for establishment of paternity.

(2) FEDERAL FUNDING.—(A) Subject to subparagraph (B), a State participating in a demonstration under this section shall be entitled to Federal payments pursuant to section 455(f) of the Social Security Act for 90 percent of the payments to families under such demonstration.

(B) FUNDING LIMITATION.—Total Federal expenditures for demonstrations under this section shall not exceed $1,000,000.

PART F—ESTABLISHMENT AND MODIFICATION OF SUPPORT ORDERS

SEC. 651. NATIONAL COMMISSION ON CHILD SUPPORT GUIDELINES.

(a) ESTABLISHMENT.—The Secretary is authorized to establish, in accordance with this section, a commission to be known as the "National Commission on Child Support Guidelines" (in this section referred to as the "Commission").

(b) GENERAL DUTIES.—The Commission shall consider whether a national child support guideline is advisable and, if it so determines, shall develop and propose for congressional consideration such a guideline (or parameters for State guidelines), reflecting the Commission's study of various guideline models and its conclusions concerning their strengths and deficiencies, and specifically reflecting consideration of the need for simplicity and ease of application of guidelines, and of the matters enumerated in subsection (c).

(c) MATTERS FOR CONSIDERATION BY THE COMMISSION.—In making the recommendations concerning guidelines required pursuant to subsection (b), the Commission shall consider—

(1) the adequacy of State child support guidelines established pursuant to section 467;

(2) matters generally applicable to all support orders, including—

(A) the feasibility of adopting uniform terms in all child support orders;

(B) how to define income and under what circumstances income should be imputed; and

(C) tax treatment of child support payments;

(3) the appropriate treatment of cases in which either or both parents have financial obligations to more than one family, including the effect (if any) to be given to—

(A) the income of either parent's spouse; and

(B) the financial responsibilities of either parent for other children or stepchildren;

(4) the appropriate treatment of expenses for child care (including care of the children of either parent, and work-related or job-training-related child care);

(5) the appropriate treatment of expenses for health care (including uninsured health care) and other extraordinary expenses for children with special needs;

(6) the appropriate duration of support by one or both parents, including—

(A) support (including shared support) for post-secondary or vocational education; and

(B) support for disabled adult children; and

(7) whether, or to what extent, support levels should be adjusted in cases where custody is shared or where the noncustodial parent has extended visitation rights.

(d) MEMBERSHIP.—

(1) NUMBER; APPOINTMENT—

(A) IN GENERAL.—The Commission shall be composed of 12 individuals appointed not later than March 1, 1995, of which—

(i) two shall be appointed by the Chairman of the Senate Committee on Finance, and one shall be appointed by the Ranking Minority Member of such Committee;

(ii) two shall be appointed by the Chairman of the House Committee on Ways and Means, and one shall be appointed by the Ranking Minority Member of such Committee; and

(iii) six shall be appointed by the Secretary of Health and Human Services.

(B) QUALIFICATIONS OF MEMBERS.—Members of the Commission shall have expertise and experience in the evaluation and development of child support guidelines. At least one member shall represent advocacy groups for custodial parents, at least one member shall represent advocacy groups for noncustodial parents, and at least one member shall be the director of a State program under title IV-D of the Social Security Act.

(2) TERMS OF OFFICE.—Each member shall be appointed for the life of the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(e) COMMISSION POWERS, COMPENSATION, ACCESS TO INFORMATION, AND SUPERVISION.—The first sentence of subparagraph (C), the first and third sentences of subparagraph (D), subparagraph (F) (except with respect to the conduct of medical studies), clauses (ii) and (iii) of subparagraph (G), and subparagraph (H) of section 1886(e)(6) of the Social Security Act shall apply to the Commission in the same manner in which such provisions apply to the Prospective Payment Assessment Commission, except that references in such section to the Office of Technology Assessment shall be disregarded.

(f) REPORT.—Not later than July 1, 1997, the Commission shall report to the President and the Congress on the results of the studies required under this section.

(g) The Commission shall terminate 6 months after submission of the report required under subsection (f).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 1995 and 1996, to remain available until expended.

SEC. 652. STATE LAWS CONCERNING MODIFICATION OF CHILD SUPPORT ORDERS.

(a) STATE LAW REQUIREMENTS.—Section 466(a)(10) is amended—

(1) by inserting "PROCEDURES FOR MODIFICATION OF SUPPORT ORDERS.—" after "(10)";

(2) by redesignating subparagraph (C) as subparagraph (E) and inserting after subparagraph (B) the following new subparagraphs:

"(C)(i) Procedures to ensure that, beginning October 1, 1999 (or such earlier date as the State may select), the State agency (or, at the option of the State, the local agency) reviews and adjusts, in accordance with guidelines established pursuant to section 467(a), judicial and administrative child support orders included in the State registry established pursuant to section 454A(d), under which (subject to clauses (ii) and (iii) the order—

"(I) is to be reviewed not later than 36 months after the establishment of the order or the most recent adjustment of (or determination not to adjust) such order; and

"(II) (at State option) may not be reviewed during a minimum period established by the State following the establishment or most recent review of the order.

"(ii) The requirement of clause (i)(I) shall not apply in any case where—

"(I) the State has determined, in accordance with regulations of the Secretary, that such a review would not be in the best interests of the child; or

"(II) both parents have been informed of the modified support amount that would be imposed under the guidelines and have declined such modification in writing.

"(iii) The State shall provide for review of a child support order upon the request of either parent, notwithstanding the requirement of clause (i)(II), whenever, subsequent to the establishment or most recent review—

"(I) either parent's income has changed by more than 20 percent, or

"(II) other substantial changes have occurred in either parent's circumstances.

"(D) AMOUNT OF MODIFICATION BASED ON GUIDELINES.—Procedures under which support orders reviewed in accordance with subparagraph (C) must be adjusted in accordance with the guidelines established pursuant to section 467(a), without a requirement for any other change in circumstances (except that the State may refuse to modify an order in any case where the change in the support amount, if so modified, would not exceed a threshold percentage (which may not be greater than 10 percent)).";

(3) in subparagraph (E), as redesignated—

(i) by striking "(E)" and inserting "(E) DUE PROCESS SAFEGUARDS.—";

(ii) in the matter preceding clause (i), by striking "this part—" and inserting "this part, in accordance with State due process requirements—";

(iii) in clause (i), by striking ", at least 30 days before the commencement of such review"; and

(iv) in clause (iii), by striking "not less than 30 days" and inserting "a reasonable time".

(b) AUTOMATED PROCEDURES.—Section 454A, as previously added and amended by this Act, is further amended by adding at the end the following new subsection:

"(i) MODIFICATION OF SUPPORT ORDERS.—The automated system required under this section shall be used, to the maximum extent feasible, to assist in the review and modification of support orders in accordance with the timetable under section 466(a)(10) and the guidelines under section 467.".

SEC. 653. STUDY ON USE OF TAX RETURN INFORMATION FOR MODIFICATION OF CHILD SUPPORT ORDERS.

(a) REQUIREMENT FOR STUDY.—The Secretary of Health and Human Services and the Secretary of the Treasury shall conduct a study to determine how return information (as defined in section 6103(b) of the Internal Revenue Code of 1986) filed with the Secretary of the Treasury might be used to facilitate the process of determining the amount (if any) by which child support award amounts should be modified in accordance with guidelines established under section 467.

(b) AMENDMENT TO INTERNAL REVENUE CODE.—Section 6103(1)(6) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

"(C) Upon written request by the Secretary of Health and Human Services, the Secretary may disclose return information to officers and employees of the Department of the Treasury and the Department of Health and Human Services, as may be specified in such written request, to be used in conducting the study required under section 653 of the Work and Responsibility Act of 1994. Return information disclosed pursuant to this subparagraph shall be used only for purposes of conducting such study.".

PART G—ENFORCEMENT OF SUPPORT ORDERS

SEC. 661. REVOLVING LOAN FUND FOR PROGRAM IMPROVEMENTS TO INCREASE COLLECTIONS.

Part D of title IV is amended by inserting after section 455 the following new section:

"REVOLVING FUND FOR PROGRAM IMPROVEMENTS TO INCREASE COLLECTIONS

"SEC. 455A. (a) PURPOSE; AUTHORIZATION OF APPROPRIATIONS.—The Secretary is authorized to establish a revolving fund for loans to States operating programs under this part, for short-term projects by such States (and political subdivisions of such States) for making operational improvements in such programs with the potential for achieving substantial increases in child support collections. There are authorized to be appropriated for payment to such fund $10,000,000 for each of fiscal years 1998 and 1999, and $20,000,000 for each of fiscal years 2000 through 2003: Provided, That payment may be made to this fund only to the extent, and in such amounts, as are provided for in advance in appropriations Acts.

"(b) CRITERIA FOR LOAN AWARDS.—Criteria for evaluating applications for loans under this section must include—

"(1) the likelihood that the proposed project will increase child support collections, and

"(2) the availability to the State (or political subdivision) of funding for the project from other sources.

"(c) Amount and Duration of Loans.—

"(1) AMOUNT.—Loans may be made to a State under this section in amounts not to exceed $5,000,000 per State or $1,000,000 per project (or $5,000,000 for a single Statewide project in a large State). States may supplement loan funds under this section with funds from other sources, and may require contributions from local jurisdictions served by the project.

"(2) DURATION.—Loan payments to a State for a project under this section may not be made for a period longer than 3 years.

"(d) RECOUPMENT.—A loan to a State under this section shall be recovered from the State over 3 fiscal years, beginning in the fourth calendar quarter beginning after the project ends (or, if earlier, the sixteenth calendar quarter beginning after loan payments for the project began) through—

"(1) an offset of one-half of the increase in incentive payments due to the State under section 458 for each calendar quarter until funds are fully repaid, plus

"(2) an offset from payments due to the State under section 455(a) for each calendar quarter equal to the amount, if any, by which one-twelfth of the total loan (plus interest) exceeds the amount described under paragraph (1),

with such amounts recovered being credited to the revolving fund under this section.

"(e) AVAILABILITY AS STATE SHARE.—Funds received by a State under this section may be used by the State as the non-Federal share of expenditures under the State program under this part.".

SEC. 662. FEDERAL INCOME TAX REFUND OFFSET.

(a) CHANGED ORDER OF REFUND DISTRIBUTION UNDER INTERNAL REVENUE CODE.—(1) Section 6402(c) of the Internal Revenue Code of 1986 is amended—

(A) by striking "The amount" and inserting "(1) In general. The amount";

(B) by striking "paid to the State. A reduction" and inserting "paid to the State.

"(2) Priorities for offset. A reduction";

(C) by striking "shall be applied first" and inserting "shall be applied (after any reduction under subsection (d) on account of a debt owed to the Department of Education or Department of Health and Human Services with respect to a student loan) first";

(D) by striking "has been assigned" and inserting "has not been assigned"; and

(E) by striking "and shall be applied" and all that follows and inserting "and shall thereafter be applied to satisfy any past-due support that has been so assigned.".

(2) Section 6402(d)(2) of such Code is amended by striking "after such overpayment" and all that follows through "Social Security Act and" and inserting "(A) before such overpayment is reduced pursuant to subsection (c), in the case of a debt owed to the Department of Education or Department of Health and Human Services with respect to a student loan, (B) after such overpayment is reduced pursuant to subsection (c), in the case of any other debt, and (C) in either case,".

(b) ELIMINATION OF DISPARITIES IN TREATMENT OF ASSIGNED AND NON-ASSIGNED ARREARAGES.—Section 464(a) is amended—

(A) by striking "(a)" and inserting "(a) Offset Authorized.—";

(B) in paragraph (1)—

(i) in the first sentence, by striking "which has been assigned to such State pursuant to section 402(a)(26) or section 471(a)(17)"; and

(ii) in the second sentence, by striking "in accordance with section 457(b)(4) or (d)(3)" and inserting "as provided in paragraph (2)";

(C) in paragraph (2), to read as follows:

"(2) The State agency shall distribute amounts paid by the Secretary of the Treasury pursuant to paragraph (1)—

"(A) in accordance with section 457(a)(4) or (d)(3), in the case of past-due support assigned to a State pursuant to section 402(a)(26) or section 471(a)(17); and

"(B) to or on behalf of the child to whom the support was owed, in the case of past-due support not so assigned.";

(C) in paragraph (3)—

(i) by striking "or (2)" each place it appears; and

(ii) in subparagraph (B), by striking "under paragraph (2)" and inserting "on account of past-due support described in paragraph (2)(B)";

(2) Section 464(b) is amended—

(A) by striking "(b)(1)" and inserting "(b) REGULATIONS.—"; and

(B) by striking paragraph (2).

(3) Section 464(c) is amended—

(A) by striking "(c)(1) Except as provided in paragraph (2), as" and inserting "(c) DEFINITION.—As"; and

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

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1996.

SEC. 663. INTERNAL REVENUE SERVICE COLLECTION OF ARREARS.

(a) AMENDMENT TO INTERNAL REVENUE CODE.—Section 6305(a) of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (1), by inserting "except as provided in paragraph (5)" after "collected";

(2) by striking "and" at the end of paragraph (3);

(3) by striking the period at the end of paragraph (4) and inserting a comma;

(4) by adding after paragraph (4) the following new paragraph:

"(5) no additional fee may be assessed for adjustments to an amount previously certified pursuant to such section 452(b) with respect to the same obligor."; and

(6) by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Secretary of Health and Human Services".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1996.

SEC. 664. AUTHORITY TO COLLECT SUPPORT FROM EMPLOYMENT-RELATED PAYMENTS BY UNITED STATES.

(a) CONSOLIDATION AND STREAMLINING OF AUTHORITIES.—

(1) Section 459 is amended in the caption by inserting "INCOME WITHHOLDING," before "GARNISHMENT".

(2) Section 459(a) is amended—

(A) by striking "(a)" and inserting "(a) CONSENT TO SUPPORT ENFORCEMENT.—

(B) by striking "section 207" and inserting "section 207 of this Act and 38 U.S.C. 5301"; and

(C) by striking all that follows "a private person," and inserting "to withholding in accordance with State law pursuant to subsections (a)(1) and (b) of section 466 and regulations of the Secretary thereunder, and to any other legal process brought, by a State agency administering a program under this part or by an individual obligee, to enforce the legal obligation of such individual to provide child support or alimony.".

(3) Section 459(b) is amended to read as follows:

"(b) CONSENT TO REQUIREMENTS APPLICABLE TO PRIVATE PERSON.— Except as otherwise provided herein, each entity specified in subsection (a) shall be subject, with respect to notice to withhold income pursuant to section 466(a)(1) or (b), or to any other order or process to enforce support obligations against an individual (if such order or process contains or is accompanied by sufficient data to permit prompt identification of the individual and the moneys involved), to the same requirements as would apply if such entity were a private person.".

(4) Section 459(c) is redesignated and relocated as paragraph (2) of subsection (f), and is amended—

(A) by striking "responding to interrogatories pursuant to requirements imposed by section 461(b)(3)" and inserting "taking actions necessary to comply with the requirements of subsection (A) with regard to any individual"; and

(B) by striking "any of his duties" and all that follows and inserting "such duties.".

(5) Section 461(b) is relocated and redesignated as section 459(c)(1), and is amended to read as follows:

"(c) DESIGNATION OF AGENT; RESPONSE TO NOTICE OR PROCESS.—(1) The head of each agency subject to the requirements of this section shall—

"(A) designate an agent or agents to receive orders and accept service of process; and

"(B) publish (i) in the appendix of such regulations, (ii) in each subsequent republication of such regulations, and (iii) annually in the Federal Register, the designation of such agent or agents, identified by title of position, mailing address, and telephone number.".

(6) Section 459(d) is redesignated as paragraph (2) of section 459(c), and is amended to read as follows:

"(2) Whenever an agent designated pursuant to paragraph (1) receives notice pursuant to section 466(a)(1) or (b), or is effectively served with any order, process, or interrogatories, with respect to an individual's child support or alimony payment obligations, such agent shall—

"(A) as soon as possible (but not later than fifteen days) thereafter, send written notice of such notice or service (together with a copy thereof) to such individual at his duty station or last-known home address;

"(B) within 30 days (or such longer period as may be prescribed by applicable State law) after receipt of a notice pursuant to section 466(a)(1) or (b), comply with all applicable provisions of such section 466; and

"(C) within 30 days (or such longer period as may be prescribed by applicable State law) after effective service of any other such order, process, or interrogatories, respond thereto.".

(7) Section 461(c) is relocated and redesignated as section 459(d), and is amended to read as follows:

"(d) PRIORITY OF CLAIMS.—In the event that a governmental entity receives notice or is served with process, as provided in this section, concerning amounts owed by an individual to more than one person—

"(A) support collection under section 466(b) must be given priority over any other process, as provided in section 466(b)(7);

"(B) allocation of moneys due or payable to an individual among claimants under section 466(b) shall be governed by the provisions of such section 466(b) and regulations thereunder; and

"(C) such moneys as remain after compliance with subparagraphs (A) and (B) shall be available to satisfy any other such processes on a first-come, first-served basis, with any such process being satisfied out of such moneys as remain after the satisfaction of all such processes which have been previously served.".

(8) Section 459(e) is amended by striking "(e)" and inserting "(e) NO REQUIREMENT TO VARY PAY CYCLES.—".

(9) Section 459(f) is amended by striking "(f)" and inserting "(f) RELIEF FROM LIABILITY.—(1)".

(10) Section 461(a) is redesignated and relocated as section 459(g), and is amended—

(A) by striking "(g)" and inserting "(g) REGULATIONS.—"; and

(B) by striking "section 459" and inserting "this section".

(11) Section 462(f) is relocated and redesignated as section 459(h), and is amended to read as follows:

"(h) MONEYS SUBJECT TO PROCESS.—(1) Subject to subsection (i), moneys paid or payable to an individual which are considered to be based upon remuneration for employment, for purposes of this section—

"(A) consist of—

"(i) compensation paid or payable for personal services of such individual, whether such compensation is denominated as wages, salary, commission, bonus, pay, allowances, or otherwise (including severance pay, sick pay, and incentive pay); and

"(ii) periodic benefits (including a periodic benefit as defined in section 228(h)(3)) or other payments—

"(I) under the insurance system established by title II; and

"(II) under any other system or fund established by the United States which provides for the payment of pensions, retirement or retired pay, annuities, dependents' or survivors' benefits, or similar amounts payable on account of personal services performed by the individual or any other individual;

"(B) do not include any payment—

"(i) as compensation for death under any Federal program;

"(ii) under any Federal program established to provide 'black lung' benefits;

"(iii) by the Secretary of Veterans Affairs as pension, or as compensation for a service-connected disability or death (except any compensation paid by such Secretary to a former member of the Armed Forces who is in receipt of retired or retainer pay if such former member has waived a portion of his retired pay in order to receive such compensation);

"(iv) by way of reimbursement or otherwise, to defray expenses incurred by such individual in carrying out duties associated with his employment; or

"(v) as allowances for members of the uniformed services payable pursuant to chapter 7 of 37 U.S.C., as prescribed by the Secretaries concerned (defined by 37 U.S.C. 101(5)) as necessary for the efficient performance of duty.".

(12) Section 462(g) is redesignated and relocated as section 459(i).

(13)(A) Section 462 is amended—

(i) in subsection (e)(1), by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii); and

(ii) in subsection (e), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B).

(B) Section 459 is amended by adding at the end the following:

"(j) DEFINITIONS.—For purposes of this section—".

(C) Subsections (a) through (e) of section 462, as amended by subparagraph (A), are relocated and redesignated as paragraphs (1) through (4) of section 459(j), and are indented accordingly.

(b) CONFORMING AMENDMENTS.—

(1) TO TITLE IV-D.—Sections 461 and 462 are repealed.

(2) TO 5 U.S.C.—5 U.S.C. 5520a is amended, in subsections (h)(2) and (i), by striking "sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, and 662)" and inserting "section 459 of the Social Security Act (42 U.S.C. 659)".

(D) MILITARY RETIRED AND RETAINER PAY.—(1) DEFINITION OF COURT.—10 U.S.C. 1408(a)(1) is amended—

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

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

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

"(D) any administrative or judicial tribunal of a State competent to enter orders for support or maintenance (including a State agency administering a State program under part D of title IV of the Social Security Act).";

(2) DEFINITION OF COURT ORDER.—10 U.S.C. 1408(a)(2) is amended by inserting "or a court order for the payment of child support not included in or accompanied by such a decree or settlement," before "which—".

(3) PUBLIC PAYEE.—10 U.S.C. 1408(d) is amended—

(A) in the heading, by striking "to spouse" and inserting "to (or for benefit of)"; and

(B) in paragraph (1), in the first sentence, by inserting "(or for the benefit of such spouse or former spouse to a State central collections unit or other public payee designated by a State, in accordance with part D of title IV of the Social Security Act, as directed by court order, or as otherwise directed in accordance with such part D)" before "in an amount sufficient".

(4) RELATIONSHIP TO TITLE IV-D.—10 U.S.C. 1408 is amended by adding at the end the following new subsection:

"(j) RELATIONSHIP TO OTHER LAWS.—In any case involving a child support order against a member who has never been married to the other parent of the child, the provisions of this section shall not apply, and the case shall be subject to the provisions of section 459 of the Social Security Act.".

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective on the date six months after enactment of this Act.

SEC. 665. MOTOR VEHICLE LIENS.

Section 466(a)(4) is amended—

(A) by striking "(4) Procedures" and inserting "(4) LIENS.—(A) IN GENERAL.—"; and

(B) by adding at the end the following new subparagraph:

"(B) MOTOR VEHICLE LIENS.—Procedures for placing liens for arrears of child support on motor vehicle titles of individuals owing such arrears equal to or exceeding two months of support, under which—

"(i) any person owed such arrears may place such a lien;

"(ii) the State agency administering the program under this part shall systematically place such liens;

"(iii) expedited methods are provided for—

"(I) ascertaining the amount of arrears;

"(II) affording the person owing the arrears or other titleholder to contest the amount of arrears or to obtain a release upon fulfilling the support obligation;

"(iv) such a lien has precedence over all other encumbrances on a vehicle title other than a purchase money security interest; and

"(v) the individual or State agency owed the arrears may execute on, seize, and sell the property in accordance with State law.".

SEC. 666. VOIDING OF FRAUDULENT TRANSFERS.

Section 466(a) is amended by adding at the end the following new paragraph:

"(15) FRAUDULENT TRANSFERS.—Procedures under which—

"(A) the State has in effect—

"(i) the Uniform Fraudulent Conveyance Act of 1981,

"(ii) the Uniform Fraudulent Transfer Act of 1984, or

"(iii) another law, specifying indicia of fraud which create a prima facie case that a debtor transferred income or property to avoid payment to a child support creditor, which the Secretary finds affords comparable rights to child support creditors; and

"(B) in any case in which the State knows of a transfer by a child support debtor with respect to which such a prima facie case is established, the State must—

"(i) seek to void such transfer; or

"(ii) obtain a settlement in the best interests of the child support creditor.".

SEC. 667. STATE LAW AUTHORIZING SUSPENSION OF LICENSES.

Section 466(a) is amended by adding at the end the following new paragraph:

"(16) AUTHORITY TO WITHHOLD OR SUSPEND LICENSES.—Procedures under which the State has (and uses in appropriate cases) authority (subject to appropriate due process safeguards) to withhold or suspend, or to restrict the use of driver's licenses, professional and occupational licenses, and recreational licenses of individuals owing overdue child support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.".

SEC. 668. REPORTING ARREARAGES TO CREDIT BUREAUS.

Section 466(a)(7) is amended to read as follows:

"(7) REPORTING ARREARAGES TO CREDIT BUREAUS.—(A) Procedures (subject to safeguards pursuant to subparagraph (B)) requiring the State to report periodically to consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) the name of any absent parent who is delinquent by one month or more in the payment of support, and the amount of overdue support owed by such parent.

"(B) Procedures ensuring that, in carrying out subparagraph (A), information with respect to an absent parent is reported—

"(i) only after such parent has been afforded all due process required under State law, including notice and a reasonable opportunity to contest the accuracy of such information; and

"(ii) only to an entity that has furnished evidence satisfactory to the State that the entity is a consumer reporting agency.".

SEC. 669. EXTENDED STATUTE OF LIMITATION FOR COLLECTION OF ARREARAGES.

(a) AMENDMENTS.—Section 466(a)(9) is amended—

(1) by striking "(9) Procedures" and inserting "(9) LEGAL TREATMENT OF ARREARS.—(A) FINALITY.—

(2) by redesignating indented subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively; and

(3) by adding after and below subparagraph (A), as redesignated, the following new subparagraph:

"(B) STATUTE OF LIMITATIONS.—Procedures under which the statute of limitations on any arrearages of child support extends at least until the child owed such support is 30 years of age.".

(b) APPLICATION OF REQUIREMENT.—The amendment made by this section shall not be read to require any State law to revive any payment obligation which has lapsed prior to the effective date of such State law.

SEC. 670. CHARGES FOR ARREARAGES.

(a) STATE LAW REQUIREMENT.—Section 466(a) is amended by adding at the end the following new paragraph:

"(17) CHARGES FOR ARREARAGES.—Procedures providing for the calculation and collection of interest or penalties for arrearages of child support, and for distribution of such interest or penalties collected for the benefit of the child (except where the right to support has been assigned to the State).".

(b) REGULATIONS.—The Secretary of Health and Human Services shall establish by regulation a rule to resolve choice of law conflicts arising in the implementation of the amendment made by subsection (a).

(c) CONFORMING AMENDMENT.—Section 454(21) is repealed.

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to arrearages accruing on or after October 1, 1997.

SEC. 671. VISITATION ISSUES BARRED.

Section 466(a) is amended by adding at the end the following new paragraph:

"(18) VISITATION ISSUE BARRED.—Procedures under which failure to pay child support is not a defense to denial of visitation rights, and denial of visitation rights is not a defense to failure to pay child support.".

SEC. 672. TREATMENT OF SUPPORT OBLIGATIONS UNDER BANKRUPTCY CODE.

(a) NO STAY OF PROCEEDINGS.—11 U.S.C. 362(b)(2) is amended to read as follows:

"(2) under subsection (a) of this section—

"(A) of the commencement or continuation of a judicial or administrative proceeding, or other action under State or territorial law by a government unit, against the debtor to establish paternity, to establish or modify an obligation to pay for the support of a spouse, former spouse, or child of the debtor, or to establish a schedule for payment of such support (including any arrearages); or

"(B) of the collection of alimony, maintenance, or support from property that is not property of the estate;".

(b) STREAMLINED FILING PROCEDURE FOR SUPPORT CREDITOR.—11 U.S.C. 501 is amended by adding at the end the following new subsection:

"(e)(1) The creditor of a claim that is excepted from discharge under section 523(a)(5) may file such claim by delivering to the clerk of the bankruptcy court in which a petition under this title is pending, in person or by registered mail, the claim form promulgated under paragraph (2). Such a creditor, filing a claim in such a manner, shall not be required to make a personal appearance before the court, to be represented by counsel admitted to practice in the jurisdiction in which such court is located, to comply with any local rules not specified pursuant to paragraph (2), or to pay any filing fees or other charges in connection with the filing of such claim.

"(2) The Judicial Conference of the United States shall promulgate, not later than June 30, 1995—

"(A) a standardized, simplified form for filing claims described in paragraph (1); and

"(B) procedural guidelines for the use of such form, which rules shall be designed to minimize the burden on support creditors of filing such claims.".

(c) TREATMENT AS PREFERRED UNSECURED CREDITOR.—11 U.S.C. 507(a) is amended—

(1) by striking "(8) Eighth," and inserting "(9) Ninth,"; and

(3) by inserting after paragraph (7) the following new paragraph:

"(8) Eighth, unsecured claims for alimony, maintenance, or support of a spouse, former spouse, or child of the debtor allowed under section 502 of this title, to the full extent of such claims, and in accordance with any payment schedule established as described in section 362(b)(2).".

(d) PAYMENT SCHEDULE IN CHAPTER 13 PLANS.—11 U.S.C. 1322(a)(2) is amended by inserting before the semicolon "(except that the plan shall provide, in the case of a debt not subject to discharge under section 523(a)(5), for payment in accordance with any payment schedule included in the order providing for alimony, maintenance, or support)".

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1995.

SEC. 673. DENIAL OF PASSPORTS FOR NONPAYMENT OF CHILD SUPPORT.

(a) HHS CERTIFICATION PROCEDURE.—(1) SECRETARIAL RESPONSIBILITY.—Section 452 is amended by adding at the end of the following new subsection:

"(k) CERTIFICATIONS FOR PURPOSES OF PASSPORT RESTRICTIONS.—(1) IN GENERAL.—Where the Secretary receives a certification by a State agency in accordance with the requirements of section 454(29) that an individual owes arrearages of child support in excess of $5,000, the Secretary shall transmit such certification to the Secretary of State for action (with respect to denial, revocation, or limitation of passports) pursuant to 22 U.S.C. 219.

"(2) LIMIT ON LIABILITY.—The Secretary shall not be liable to an individual for any action with respect to a certification by a State agency under this section.".

(2) STATE CSE AGENCY RESPONSIBILITY.—Section 454, as previously amended by sections 601, 605, 615, and 622, is further amended—

(1) by striking "and" at the end of paragraph (27);

(2) by striking the period at the end of paragraph (28) and inserting "; and"; and

(3) by adding after paragraph (28) the following new paragraph:

"(29) provide that the State agency will have in effect a procedure (which may be combined with the procedure for tax refund (which may be combined with the procedure for tax refund offset under section 464) for certifying to the Secretary, for purposes of the procedure under section 452(k) (concerning denial of passports) determinations that

individuals owe child support arrearages of $5,000 or more, under which procedure—

"(A) each individual concerned is afforded notice of such determination and the consequences thereof, and an opportunity to contest the determination; and

"(B) the certification by the State agency is furnished to the Secretary in such format, and accompanied by such supporting documentation, as the Secretary may require.".

(b) STATE DEPARTMENT PROCEDURE FOR DENIAL OF PASSPORTS.—Chapter 4 of 22 U.S.C. is amended by adding at the end the following new section:

"§ 219. Denial of passport for nonpayment of child support.

"(a) IN GENERAL.—The Secretary, upon certification by the Secretary of Health and Human Services, in accordance with section 452(k) of the Social Security Act, that an individual owes arrearages of child support in excess of $5,000, shall refuse to issue a passport to such individual, and may revoke, restrict, or limit a passport issued previously to such individual.

"(b) LIMIT ON LIABILITY.—The Secretary shall not be liable to an individual for any action with respect to a certification by a State agency under this section.".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1995.

PART H—DEMONSTRATIONS

SEC. 681. CHILD SUPPORT ENFORCEMENT AND ASSURANCE DEMONSTRATIONS.

(a) DEMONSTRATIONS AUTHORIZED.—(1) INITIAL PROJECTS.—The Secretary shall make grants to three States for demonstrations under this section to determine the effectiveness of programs to provide assured levels of child support to custodial parents of children for whom paternity and support obligations have been established.

(b) DURATION OF PROJECTS.—(1) TOTAL PROJECT PERIOD.—The Secretary shall make grants to States for demonstrations under this section beginning in fiscal year 1997, for periods of from 7 to 10 years.

(2) PHASEDOWN PERIOD.—Each State implementing a demonstration project under this section shall—

(A) phase out activities under such demonstration during the final two years of the project; and

(B) obtain the Secretary's approval, before the beginning of such phasedown period, of a plan for accomplishing such phasedown.

(c) CONSIDERATIONS IN SELECTION OF PROJECTS.—(1) SCOPE.—Projects under this section may, but need not, be statewide in scope.

(2) STATE ADMINISTRATION.—(A) RESPONSIBLE STATE AGENCY.—A State demonstration project under this section shall be administered either by the State agency administering the program under title IV-D of the Social Security Act or the State department of revenue and taxation.

(3) CONTROLS.—At least one demonstration project under this section shall include randomly assigned control groups.

(B) AUTOMATION.—The State agency described in subparagraph (A) shall operate (or have automated access to) the automated data system required under section 454(16) of the Social Security Act, and shall have adequate automated capacity to carry out the project under this section (including the timely distribution of child support assurance benefits).

(d) ELIGIBILITY.—(1) IN GENERAL.—Child support assurance payments under projects under this section shall be available only to children for whom paternity and support obligations have been established (or with respect to whom a determination has been made that efforts to establish paternity or support would not be in the best interests of the child).

(2) FAMILIES WITH SHARED CUSTODY.—In cases where both parents share custody of a child, a parent and child shall not be eligible for benefits under a demonstration under this section unless—

(A) a support order is in effect entitling such parent to support payments in excess of the minimum benefit; or

(B) the agency or tribunal which issued the order certifies that the child support award would be below such minimum benefit if either parent was awarded sole custody and the guidelines under section 467 were applied.

(3) STATE OPTION TO BASE ELIGIBILITY ON NEED.—At State option, eligibility for benefits under a demonstration under this section may be limited to families with incomes and resources below a standard of need established by the State.

(f) BENEFIT AMOUNTS.—(1) RANGE OF BENEFIT LEVELS.—States shall have flexibility to set annual benefit levels under demonstrations under this section, provided that (subject to the remaining provisions of this subsection) such levels—

(A) are now lower than $1,500 for a family with one child or $3,000 for a family with four or more children; and

(B) are not higher than $3,000 for a family with one child or $4,500 for a family with four or more children;

(2) INDEXING.—Annual benefit levels for each fiscal year after fiscal year 1996 shall be indexed to reflect the change in the Consumer Price Index.

(3) UNMATCHED EXCESS BENEFITS.—The Secretary may permit States to pay benefits higher than a maximum specified in paragraphs (1) and (2), but Federal matching of such payments shall not be available for benefits in excess of the amounts specified in paragraph (1) (as adjusted in accordance with paragraph (2)) by more than $25 per month.

(g) TREATMENT OF BENEFITS.—(1) FOR PURPOSES OF AFDC.—The amount of aid otherwise payable to a family under title IV-A of the Social Security Act shall be reduced by an amount equal to the amount of child support assurance paid to such family (or, at the Secretary's discretion, by a percentage of such amount paid specified by the Secretary).

(2) FOR PURPOSES OF OTHER BENEFIT PROGRAMS.—(A) IN GENERAL.—Except as provided in subparagraph (B), child support assurance paid to a family shall be considered ordinary income for purposes of determining eligibility for and benefits under any Federal or State program.

(B) DEEMED AFDC ELIGIBILITY.—At State option, a child (or family) that is ineligible for aid under title IV-A of the Social Security Act because of payments under a demonstration under this section may be deemed to be receiving such aid for purposes of determining eligibility for the Federal and State programs.

(3) FOR TAX PURPOSES.—Child support assurance which is paid to a family under this section and is not reimbursed from a child support collection from a noncustodial parent shall be considered ordinary income for purposes of Federal and State tax liability.

(h) WORK PROGRAM OPTION.—At the option of the State grantee, a demonstration under this section may include a work program for unemployed noncustodial parents of eligible children.

(i) AVAILABILITY OF APPROPRIATIONS FOR PAYMENTS TO STATES.—(1) STATE ENTITLEMENT TO IV-D FUNDING.—A State administering an approved demonstration under this section in a calendar quarter shall be entitled to payments for such quarter, pursuant to section 455 of the Social Security Act for the Federal share of reasonable and necessary expenditures (including expenditures for benefit payments and for associated administrative costs) under such project, in an amount (subject to paragraphs (2) and (3)) equal to—

(A) with respect to that portion of such expenditures equal to the reduction of expenditures under title IV-A of the Social Security Act pursuant to subsection (g)(1), a percentage equal to the percentage that would have been paid if such expenditures had been made under such title IV-A; and

(B) 90 percent of the remainder of such expenditures.

(2) STATES WITH LOW AFDC BENEFITS.—In the case of a State in which benefit levels under title IV-A of the Act are below the national median for such payments, the Secretary may elect to provide 90 percent Federal matching of a portion of expenditures under a project under this section that would otherwise be matched at the rate specified in paragraph (1)(A).

(3) FUNDING LIMITS; PRO RATA REDUCTIONS OF STATE MATCHING.—(A) FUNDS AVAILABLE.—There shall be available to the Secretary, from amounts appropriated to carry our part D of title IV of the Social Security Act, for purposes of carrying out demonstrations under this section, amounts not to exceed—

(i) $27,000,000 for fiscal year 1997;

(ii) $55,000,000 for fiscal year 1998;

(iii) $70,000,000 for each of fiscal years 1999 through 2002; and

(iv) $55,000,000 for fiscal year 2003.

(B) PRO RATA REDUCTIONS.—The Secretary shall make pro rata reductions in the amounts otherwise payable to States under this section as necessary to comply with the funding limitation specified in subparagraph (A).

(j) DISTRIBUTION OF CHILD SUPPORT COLLECTIONS.—Notwithstanding section 457 of the Social Security Act, support payments collected from the noncustodial parent of a child receiving (or who has received) child support assurance payments under this section shall be distributed as follows:

(1) first, amounts equal to the total support owed for such month shall be paid to the family;

(2) second, from any remainder, amounts owed to the State on account of child support assurance payments to the family shall be paid to the State (with appropriate reimbursement to the Federal Government of its share to such payments);

(3) third, from any remainder, arrearages of support owed to the family shall be paid to the family; and

(4) fourth, from any remainder, amounts owed to the State on account of current or past payments of aid under title IV-A of the Social Security Act shall be paid to the State (with appropriate reimbursement to the Federal Government of its share of such payments).

(k) EVALUATIONS AND REPORTS.—(1) STATE EVALUATIONS.—Each State administering a demonstration project under this section shall—

(A) provide for ongoing and retrospective evaluation of the project, meeting such conditions and standards as the Secretary may require; and

(B) submit to the Secretary such reports (at such times, in such format, and containing such information) as the Secretary may require, including at least an interim report not later than 90 days after the end of the fourth year of the project, and a final report not later than one year after the completion of the project, which shall include information on and analysis of the effect of the project with respect to—

(i) the economic circumstances of both noncustodial and custodial parents;

(ii) the rate of compliance by noncustodial parents with support orders;

(iii) work-force participation by both custodial and noncustodial parents;

(iv) need for or amount of aid to families with dependent children under title IV-A of the Social Security Act;

(v) paternity establishment rates; and

(vi) any other matters the Secretary may specify.

(2) REPORTS TO CONGRESS.—The Secretary shall, on the basis of reports received from States administering projects under this section, make the following reports, containing an assessment of the effectiveness of the projects and any recommendations the Secretary considers appropriate:

(A) an interim report, not later than six months following receipt of the interim State reports required by subsection (c); and

(B) a final report, not later than six months following receipt of the final State reports required under subsection (i).

(3) FUNDING FOR COSTS TO SECRETARY.—There are authorized to be appropriated $10,000,000 for fiscal year 1997, to remain available under expended for payment of the cost of evaluations by the Secretary of demonstrations under this section.

SEC. 682. SOCIAL SECURITY ACT DEMONSTRATIONS.

Section 1115(c)(3) is amended by striking "increased cost" and all that follows and inserting "an increase in total costs to the Federal Government.".

PART I—ACCESS AND VISITATION GRANTS

SEC. 691. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS.

(a) IN GENERAL.—Part D of title IV is amended by adding at the end the following new section:

"GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS

"Sec. 469A. (a) PURPOSES; AUTHORIZATION OF APPROPRIATIONS.—For the purposes of enabling States to establish and administer programs to support and facilitate absent parents' access to and visitation of their children, by means of activities including mediation (both voluntary and mandatory), counseling, education, development of parenting plans, visitation enforcement (including monitoring, supervision and neutral drop-off and pickup), and development of guidelines for visitation and alternative custody arrangements, there are authorized to be appropriated $5,000,000 for each of fiscal years 1996 and 1997, and $10,000,000 for each succeeding fiscal year.

"(b) PAYMENTS TO STATES.—(1) Each State shall be entitled to payment under this section for each fiscal year in an amount equal to its allotment under subsection (c) for such fiscal year, to be used for payment of 90 percent of State expenditures for the purposes specified in subsection (a).

(2) Payments under this section shall be used by a State to supplement (and not to substitute for) expenditures by the State, for activities specified in subsection (a), at a level at least equal to the level of such expenditures for fiscal year 1994.

"(c) ALLOTMENTS TO STATES.—(1) IN GENERAL.—For purposes of subsection (b), each State shall be entitled (subject to paragraph (1)) to an amount for each fiscal year bearing the same ratio to the amount authorized to be appropriated pursuant to subsection (a) for such fiscal year as the number of children in the State living with only one biological parent bears to the total number of such children in all States.

"(2) MINIMUM ALLOTMENT.—Allotments to States under subparagraph (A) shall be adjusted as necessary to ensure that no State is allotted less than $50,000 for fiscal year 1996 or 1997, or $100,000 for any succeeding fiscal year.

"(d) FEDERAL ADMINISTRATION.—The program under this section shall be administered by the Administration for Children and Families.

"(e) STATE PROGRAM ADMINISTRATION.—(1) Each State may administer the program under this section directly or through grants to or contracts with courts, local public agencies, or non-profit private entities.

"(2) State programs under this section may, but need not, be Statewide.

"(3) States administering programs under this section shall monitor, evaluate, and report on such programs in accordance with requirements established by the Secretary.

PART J—EFFECT OF ENACTMENT

SEC. 695. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise specifically provided (but subject to subsections (b) and (c))—

(1) provisions of this title requiring enactment or amendment of State laws under section 466 of the Act, or revision of State plans under section 454 of the Act, shall be effective with respect to periods beginning on and after October 1, 1995; and

(2) all other provisions of this title shall become effective upon enactment.

(b) GRACE PERIOD FOR STATE LAW CHANGES.—The provisions of this title shall become effective with respect to a State on the later of—

(1) the date specified in this title, or

(2) the effective date of laws enacted by the legislature of such State implementing such provisions,

but in no event later than the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(c) GRACE PERIOD FOR STATE CONSTITUTIONAL AMENDMENT.—A State shall not be found out of compliance with any requirement enacted by this title if it is unable to comply without amending the State constitution until the earlier of—

(1) the date one year after the effective date of the necessary State constitutional amendment or

(2) the date five years after enactment of this title.

SEC. 696. SEVERABILITY.

If any provision of this title or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this title which can be given effect without regard to the invalid provision or application, and to this end the provisions of this title shall be severable.

TITLE VII—IMPROVING GOVERNMENT ASSISTANCE AND PREVENTING FRAUD

PART A—AFDC AMENDMENTS

SEC. 701. PERMANENT REQUIREMENT FOR UNEMPLOYED PARENT PROGRAM.

(a) IN GENERAL.—Section 401(h) of the Family Support Act of 1988 (terminating the requirement that States provide benefits to two-parent families based on the unemployment of the principal earner) is repealed.

(b) APPLICABILITY TO PUERTO RICO, AMERICAN SAMOA, GUAM, AND THE VIRGIN ISLANDS.—Section 401(g)(2) of the Family Support Act of 1988 is amended, effective on the date of enactment of such Act, to read as follows:

"(2) The amendments made by this section (other than those made by subsection (c)) shall not become effective with respect to Puerto Rico, American Samoa, Guam, or the Virgin Islands unless the jurisdiction involved notifies the Secretary of Health and Human Services that it chooses to have such amendments apply and submits the necessary plan amendment.".

SEC. 702. STATE OPTIONS REGARDING UNEMPLOYED PARENT PROGRAM.

(a) DURATION OF UNEMPLOYMENT AND RECENCY-OF-WORK TESTS.—(1) Section 407(b)(1)(A) of the Act (in the matter preceding clause (i)) is amended to read as follows:

"(A) subject to paragraph (2), shall provide for the payment of aid to families with dependent children with respect to a dependent child within the meaning of subsection (a)—".

(2) Such section is further amended—

(A) by striking out "whichever" in clause (i) and inserting in lieu thereof "when, if the State chooses to so require (and specifies in its State plan), whichever",

(B) by inserting "when" before such parent in clause (ii), and

(C) by striking out "(iii)(I)" and inserting in lieu thereof "(iii) when, if the State chooses to so require (and specifies in its State plan) (I)".

(b) STATE OPTION TO DEFINE "UNEMPLOYMENT".—At its option, a State may provide aid under part A to children of employed parents and may apply, for purposes of section 407 of the Act, as definition of unemployment that includes some or all of the individuals who, solely by reasons of the standards prescribed by the Secretary of Health and Human Services under subsection (a) of such section and in effect on the date of enactment of this Act, would not have been eligible for aid to families with dependent children, and shall include such definition in its State plan approved under part A of title IV of the Act.

(c) EFFECTIVE DATE.—The amendments made by this section and the provisions of this section shall become effective October 1, 1996.

SEC. 703. DEFINITION OF ESSENTIAL PERSON.

(1) GENERAL REQUIREMENT.—Section 402 of the Act is amended by adding immediately after and below subsection (c) the following new subsection:

"(d) In order that the State may include the needs of an individual and determining the needs of the dependent child and relative with whom the child is living, such individual must be living in the same home as such child and relative and—

"(1) furnishing personal services required because of the relative's physical or mental inability to provide care necessary for herself or himself or for the dependent child (which, for purposes of this subsection only, includes a child receiving supplemental security income benefits under title XVI), or

"(2) furnishing child care services, or care for an incapacitated member of the family, that is necessary to permit the caretaker relative—

"(A) to engage in full or part-time employment outside the home, or

"(B) to attend a course of education designed to lead to a high school diploma (or its equivalent) or a course of training on a full or part-time basis, or to participate in the program under part F on a full or part-time basis.".

SEC. 704. EXPANDED STATE OPTION FOR RETROSPECTIVE BUDGETING.

Section 402(a)(13) of the Act is amended—

(1) by striking out in the matter that precedes subparagraph (A) "but only with respect to any one or more categories of families required to report monthly to the State agency pursuant to paragraph (14),"; and

(2) by striking out in each of subparagraphs (A) and (B) "(but only where the Secretary determines it to be appropriate, in the case of families who are required to report monthly to the State agency pursuant to paragraph (14),".

SEC. 705. DISREGARDS OF INCOME.

"(a) STUDENT EARNINGS.—(1) IN GENERAL.—Section 402(a)(8)(A)(i) of the Act is amended by striking out "dependent child" and all that follows and inserting in lieu thereof "individual under age 19 who is an elementary or secondary school student".

"(2) CONFORMING AMENDMENTS.—Section 402(a) of the Act is amended—

(A)(i) by striking out "a dependent child who is a full-time student" in paragraph (8)(A)(vii) and inserting in lieu thereof "an individual under age 19 who is an elementary or secondary school student", and

(ii) by striking out "such child" in such paragraph and inserting in lieu thereof "such individual", and

(B) by striking out in paragraph (18) "of a dependent child" and inserting in lieu thereof "of an individual under age 19".

"(b) STANDARD EARNED INCOME DISREGARD AMOUNT.—(1) Section 402(a)(8)(a)(ii) of the Act is amended by striking out "$90" and inserting in lieu thereof "$120, or if greater, $120 adjusted by the CPI (as prescribed in section 406(i))".

(2) The amendment made by this subsection shall become effective October 1, 1996.

(c) STATE OPTION TO DISREGARD EARNED INCOME.—(1) IN GENERAL.—Section 402(a)(8)(A)(iv) of the Act is amended to read as follows:

"(iv) may, at its option, disregard amounts of earned income in addition to those required or permitted to disregarded under this paragraph, and shall specify in its State plan any such additional amounts and the circumstances (including whether they will be disregarded for applicants as well as for recipients) under which they will be disregarded;"

(2) CONFORMING AMENDMENTS.—

(A) Clause (ii) of section 402(a)(8)(B) of the Act is repealed.

(B)(i) Section 402(a)37) of the Act is amended by striking out "or because of paragraph (8)(B)(ii)(II)".

(ii) Section 1925(a) of the Act is amended by striking out "or because of section 402(a)(8)(ii)(II) (providing for a time-limited earned income disregard)".

(C) Section 402(g)(1)(A)(ii) of the Act is amended by striking out "increased income" and all that follows down to the period and inserting lieu thereof "amount of earnings from such employment".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall become effective October 1, 1996.

(d) DISREGARD OF TRAINING STIPENDS.—Section 402(a)(8)(A)(v) of the Act is amended to read as follows:

"(v) shall disregard from the income of any individual applying for or receiving aid to families with dependent children any amount received as a stipend or allowance under the Job Training Partnership Act or under any other training or similar program;".

(e) MANDATORY CHILD SUPPORT PASS-THROUGH.—(1) Section 402(a)(8)(A)(vi) of the Act is amended—

(A) by striking out "$50" (in two places) and inserting in lieu thereof "$50, or, if greater, $50 adjusted by the CPI (as prescribed in section 406(i))";, and

(B) by striking out the semicolon at the end and inserting in lieu thereof "or, in lieu of the amount specified in two places in this clause, such greater amount as the State many choose (and provide for in its State plan);".

(2) CPI ADJUSTMENT.—Section 406 of the Act is amended by adding at the end thereof the following new subsection:

"(i) For purposes of this part, an amount is 'adjusted by the CPI' for any month in a calendar year by multiplying the amount involved by the ratio of—

"(1) the Consumer Price Index (as prepared by the Department of Labor) for the third quarter of the preceding calendar year, to

"(2) such Consumer Price Index for the third quarter of calendar year 1996,

and rounding the product, if not a multiple of $10, to the nearer multiple of $10.".

(f) LUMP-SUM INCOME.—(1) IN GENERAL.—Section 402(a)(8)(A) of the Act is amended—

(1) by striking out "and" after clause (viii), and

(2) by adding after and below clause (viii) the following new clause:

"(ix) shall disregard from the income of any family member any amounts of income received in the form of nonrecurring lump-sum payments;".

(2) REPEAL.—Section 402(a)(17) of the Act is repealed.

(g) EDUCATIONAL ASSISTANCE.—Section 402(a)(8)(A) of the Act is further amended by adding after and below clause (ix) the following new clause:

"(x) shall disregard all educational assistance provided to a family member;".

(h) IN-KIND INCOME.—Such section is further amended by adding after and below clause (x) the following new clause:

"(xi) shall disregard all in-kind income provided to a family member;"

(i) BENEFITS UNDER THE NATIONAL AND COMMUNITY SERVICE ACT.—Such section is further amended by adding after and below clause (xi) the following new clause;

"(xii) shall disregard any living allowance, child care allowance, stipend, or educational award paid under section 140 of the National and Community Service Act of 1990 to a family member participating in a national service program carried out with assistance from the Corporation for National and Community Service;".

(j) "FILL-THE-GAP" DISREGARDS.—(1) Such section is further amended by adding after and below clauses (xii) the following new clause:

"(xiii) may disregard, in addition to any other amounts required or permitted by this paragraph, income described in the State plan by type or source and by amount, but no amount in excess of the difference between the State's standard of need applicable to the family involved and the State's payment amount for a family of the same size with no other income;".

(2) The amendment made by this subsection shall become effective October 1, 1996.

SEC. 706. STEPPARENT INCOME.

(a) Section 402(a)(31) of the Act is amended by striking out "$90" and inserting in lieu thereof "$120" and by striking out the semicolon at the end and inserting in lieu thereof ", or, at the option of the State, so much of such income as exceeds any greater amount or amounts as the State agency finds appropriate to strengthen family life and provide incentives to increase earnings;".

(b) The amendment made by this section shall become effective October 1, 1996.

SEC. 707. INCREASE IN RESOURCE LIMIT.

Section 402(a)(7)(B) of the Act is amended (in the matter preceding clause (i)) by striking out "$1000 or such lower amount as the State may determine "and inserting in lieu thereof "$2000 or, in the case of a family with a member who is 60 years of age or older, $3000".

SEC. 708. EXCLUSIONS FROM RESOURCES.

(a) LIFE INSURANCE.—Section 402(a)(7)(B)(ii) of the Act is amended by striking out the semicolon at the end and inserting in lieu thereof", and the cash value of life insurance policies;".

(b) REAL PROPERTY WHICH MUST BE DISPOSED OF.—Section 402(a)(7)(B)(iii) of the Act is amended to read as follows: "real property which the family is making a good faith effort to dispose of at a reasonable price;".

(c) EXCLUSION OF PAYMENTS OF THE EITC.—Section 402(a)(7)(B) of the Act is amended—

(1) by striking out "or" after clause (iii), and

(2) by amending clause (iv) (pertaining to payments by reason of the Earned Income Tax Credit) by striking out "the following month" and inserting in lieu thereof "the following eleven-month period", and by striking out the semicolon at the end and inserting in lieu thereof "and any lump-sum payment of State earned income tax credits and any payments described in this clause shall be deemed to be expended prior to other resources that are not excluded;".

(d) LUMP-SUM PAYMENTS FOR MEDICAL EXPENSES OR REPLACEMENT OF LOST RESOURCES.—Section 402(a)(7)(B) of the Act is amended—

(1) by striking out "and" after clause (iv), and

(2) by adding after clause (iv) the following new clause: "(v) for the month of receipt and the following eleven-month period, amounts that have been paid as reimbursement (or payment in advance) for medical expenses or for the cost of repairing or replacing resources of the family;".

(e) INDIVIDUAL DEVELOPMENT ACCOUNTS.—Section 402(a)(7)(B) of the Act is amended by adding after clause (v) the following new clause: "(vi) amounts, not to exceed $10,000 (including interest) in total, in one or more Individual Development Accounts established in accordance with (I) section 529 of the Internal Revenue Code of 1986 by any member of a family receiving aid to families with dependent children, or (II) under a demonstration project conducted under the Individual Development Account Demonstration Act of 1994, but only such amounts (including interest) that were credited to such account in a month for which such aid was paid, or food stamps provided, with respect to such individual or in any month after such a month;".

(f) RESOURCES FOR SELF-EMPLOYMENT.—Section 402(a)(7)(B) of the Act is amended by adding after clause (vi) the following new clause: "(vii) liquid and nonliquid resources

that are or will be used for the self-employment of a family member, to the extent and under the circumstances allowed by the State agency in accordance with regulations issued by the Secretary after consultation with the Secretary of Agriculture;".

SEC. 710. TRANSFER OF RESOURCES.—

Section 402(a)(7) of the Act is amended—

(1) by adding "and" after subparagraph (C), and

(2) by adding after and below subparagraph (C) the following new subparagraph:

"(D) shall determine ineligible for aid any family member who knowingly transfers resources for the purpose of qualifying or attempting to qualify for such aid for such period, not in excess of one year from the date of discovery of the transfer, determined in accordance with regulations of the Secretary;".

SEC. 711. LIMITATION ON UNDERPAYMENTS.

Section 402(a)(22)(C) of the Act is amended by striking out "an underpayment" and inserting in lieu thereof "an underpayment, the corrective payment shall be made regardless of whether the family is, at the time payment is made, receiving current payment of aid under the State plan but such payment shall not exceed the amount necessary to correct for the underpayment of aid during the twelve-month period immediately preceding the month in which the State agency first learned of the underpayment, and".

SEC. 712. COLLECTION OF AFDC OVERPAYMENTS FROM FEDERAL TAX REFUNDS.

(a) AUTHORITY TO INTERCEPT TAX REFUND.—(1) Part A of title IV of the Act is amended by adding at the end thereof the following new section:

"COLLECTION OF OVERPAYMENTS FROM FEDERAL TAX REFUNDS

"Sec. 418.(a). Upon receiving notice from a State agency administering a plan approved under this part that a named individual has been overpaid under the State plan approved under this part, the Secretary of the Treasury shall determine whether any amounts as refunds of Federal taxes paid are payable to such individual, regardless of whether such individual filed a tax return as a married or unmarried individual. If the Secretary of the Treasury finds that any such amount is payable, he shall withhold from such refunds an amount equal to the overpayment sought to be collected by the State and pay such amount to the State agency.

"(b) The Secretary of the Treasury shall issue regulations, approved by the Secretary of Health and Human Services, that provide—

"(1) that a State may only submit under subsection (a) requests for collection of overpayments with respect to individuals (A) who are no longer receiving aid under the State plan approved under this part, (B) with respect to whom the State has already taken appropriate action under State law against the income or resources of the individuals or families involved as required under section 402(a)(22)(B), and (C) to whom the State agency has given notice of its intent to request withholding by the Secretary of the Treasury from their income tax refunds;

"(2) that the Secretary of the Treasury will give a timely and appropriate notice to any other person filing a joint return with the individual whose refund is subject to withholding under subsection (a); and

"(3) the procedures that the State and the Secretary of the Treasury will follow in carrying out this section which, to the maximum extent feasible and consistent with the specific provisions of this section, will be the same as those issued pursuant to section 464(b) applicable to collection of past-due child support.

(2) Section 6402 of the Internal Revenue Code of 1986 (as previously amended by section 662 of this Act) is further amended—

(A) in subsection (a), by striking "(c) and (d)" and inserting "(c), (d), and (e)";

(B) by redesignating subsections (e) through (i) as subsections (f) through (j), respectively; and

(C) by inserting after subsection (d) the following new subsection:

"(g) Collection of overpayments under title IV-A of Social Security Act. The amount of any overpayment to be refunded to the person making the overpayment shall be reduced (after reductions pursuant to subsections (c) and (d), but before a credit against future liability for an internal revenue tax) in accordance with section 418 of the Social Security Act (concerning recovery of overpayments to individuals under State plans approved under part A of title IV of such Act).".

(b) CONFORMING AMENDMENT.—Section 552a(a)(8)(B)(iv)(III) of title 5 of the United States Code is amended by striking out "section 464 or 1137 of the Social Security Act" and inserting in lieu thereof "section 419, 464, or 1137 of the Social Security Act."

SEC. 713. VERIFICATION OF STATUS OF CITIZENS AND ALIENS.

(A) IN GENERAL.—Section 1137(d) of the Act is amended by adding at the end thereof the following:

"(6) A State shall be deemed to meet the requirements of paragraph (1) with respect to the eligibility of each member of a family applying for aid under the State plan approved under part A of title IV, if the State requires, as a condition for such eligibility, a declaration in writing by an adult member of the family, under penalty or perjury, that each family member is a citizen of the United States or an alien eligible for aid under such State plan (and, with respect to a child born into a family receiving such aid, such declaration must be made no later than the time of the next redetermination of such family's eligibility following the birth of such child).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective upon enactment.

SEC. 714. REPEAL OF REQUIREMENT TO MAKE CERTAIN SUPPLEMENTAL PAYMENTS IN STATES PAYING LESS THAN THEIR NEEDS STANDARDS.

Section 402(a)(28) of the Act is repealed.

SEC. 715. CALCULATION OF 185 PERCENT OF NEED STANDARD.

Section 402(2)(18) of the Act is amended by striking out "without application of paragraph (8)(A)(viii)," and inserting in lieu thereof "applying only the disregard provisions of paragraph (8)(A) that appear in clauses (v)(income from a program under the Job Training Partnership Act and similar programs), (viii)(payments related to the Earned Income Tax Credit), (ix)(certain lump-sum payments), (x) (educational assistance), (xi) (in-kind income), and (xii)(certain payments under the National and Community Service Act of 1990),".

SEC. 716. TERRITORIES.

(a) Section 1108(a) of the Act is amended by amending paragraphs (1) (2), and (3) to read as follows:

"(1) for payment to Puerto Rico shall not exceed—

"(A) $82,000,000 with respect to fiscal years 1994, 1995, and 1996, and

"(B) $102,500,000 or, if greater, such amount adjusted by the CPI (as prescribed in subsection (f)) for fiscal year 1997 and each fiscal year thereafter;

"(2) for payment to the Virgin Islands shall not exceed—

"(A) $2,800,000 with respect to fiscal years 1994, 1995, and 1996, and

"(B) $3,500,000 or, if greater, such amount adjusted by the CPI (as prescribed in subsection (f)) for fiscal year 1997 and each fiscal year thereafter; and

"(3) for payment to Guam shall not exceed—

"(A) $3,800,000 with respect to fiscal year 1994, 1995, and 1996, and

"(B) $4,750,000 or, if greater, such amount adjusted by the CPI (as prescribed in subsection f)), for fiscal year 1997 and each fiscal year thereafter.".

(b) CPI ADJUSTMENT.—Section 1108 of the Act is amended by adding at the end thereof the following new subsection:

"(f) For purposes of subsection (a), an amount is 'adjusted by the CPI' for months in calendar year by multiplying that amount by the ratio of the Consumer Price Index as prepared by the Department of Labor for—

"(1) the third quarter of the preceding calendar year, to

"(2) the third quarter of calendar year 1996, and rounding the product, if not a multiple of $10,000, to the nearer multiple of $10,000.".

PART B—FOOD STAMP ACT AMENDMENTS

SEC. 721. INCONSEQUENTIAL INCOME.

Section 5(d)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(2)) is amended to read as follows—

"(2) any inconsequential payments, as defined by the Secretary, received during the certification period, but not to exceed a total of such payments of $30 per household member in any quarter, whether the household's income is calculated on a prospective or retrospective basis,".

SEC. 722. EDUCATIONAL ASSISTANCE.

Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended by—

(1) striking clause (3) of subsection (d) and inserting in lieu thereof the following—

"(3) all educational assistance provided to a household member,";

(2) in the proviso of clause (5) of subsection (d), striking "and no portion of any educational loan" and all that follows through "provided for living expenses,"; and

(3) striking clause (3) of subsection (k).

SEC. 723. EARNINGS OF STUDENTS.

Effective on and after September 1, 1994, section 5(d)(7) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(7)) is amended by—

(1) striking "a child who is a member of the household, who is"; and

(2) striking ", and who is 21" and inserting in lieu thereof "who is 18".

SEC. 724. TRAINING STIPENDS AND ALLOWANCES; INCOME FROM ON-THE-JOB TRAINING PROGRAMS.

Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended by—

(1) striking "and (16)" in subsection (d) and inserting in lieu thereof "(16)";

(2) inserting before the period at the end of subsection (d) ", and (17) any amount received by any member of a household as a stipend or allowance under the Job training Partnership Act (29 U.S.C. 1501 et seq.) or under any other training or similar program"; and

(3) striking in subsection (1) the language beginning with "under section 204(b)(1)(C)" and all that follows through "19 years of age." and inserting in lieu thereof "shall be

considered earned income for purposes of the food stamp program.".

SEC. 725. EARNED INCOME TAX CREDITS.

Effective on and after September 1, 1994, the second sentence of section (5)(g)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(3)) is amended by—

(1) inserting "Federal or State lump-sum" immediately preceding "earned income tax credits"; and

(2) striking the language beginning with "if such member was participating" and all that follows through "the 12-month period".

SEC. 726. RESOURCES NECESSARY FOR SELF EMPLOYMENT.

Section 5(g)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(3)) is amended by adding the following new third and fourth sentences—

"The Secretary shall also exclude from financial resources loans obtained for the purposes of starting or operating a business. The Secretary may exclude from financial resources liquid or nonliquid resources that are or will be used for the self employment of any member of a household to the extent and under the circumstances allowed in regulations issued by the Secretary after consultation with and the Secretary of Health and Human Services.".

SEC. 727. LUMP-SUM PAYMENTS FOR MEDICAL EXPENSES OR REPLACEMENT OF LOST RESOURCES.

Section 5(g)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(3)) as amended by this Act is further amended by adding the following new fifth sentence—

"The Secretary shall also exclude from financial resources, for a period of one year from their receipt, amounts that have been paid as reimbursements (or payment in advance) for medical expenses or for the cost of repairing or replacing resources of the family.".

SEC. 728. INDIVIDUAL DEVELOPMENT ACCOUNTS.

Section 5(g)(3) of the Food Stamp act of 1977 (7 U.S.C. 2014(f)(3)) as amended by this Act is further amended by adding the following new sixth and seventh sentences—

"The Secretary shall also exclude from financial resources amounts, not to exceed $10,000 (including interest) in total, in one or more Individual Development Accounts established in accordance with (A) section 529 of the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.) by any member of a household applying for or receiving assistance under this Act or (B) a demonstration project conducted under the Individual Development Account Demonstration Act of 1994, but only such amounts (including interest) that were credited to such account in a month for which assistance was provided under this act or aid to families with dependent children was provided pursuant to part A of the title IV of the Social Security Act, with respect to such individual, or in any month after such a month. The Secretary shall also exclude from financial resources, for the month of its receipt and the following month, a nonrecurring lump-sum payment received by any household member if the household member represents that the payment will be deposited in an Individual Development Account established as described in the preceding sentence.".

SEC. 729. CONFORMING AMENDMENT.

Section 5(d)(8) of the Food Stamp Act of 1977 (7 U.S.C 2014(d)(8)) is amended in the proviso by inserting "paragraph (3) of subsection (g) of this section or" immediately preceding "other laws".

PART C—ECONOMIC INDEPENDENCE

SEC. 731. SHORT TITLE.

This title may be cited as the "Individual Development Account Demonstration Act of 1994".

SEC. 732. DECLARATION OF POLICY AND STATEMENT OF PURPOSE.

(a) DECLARATION OF POLICY.—It is the policy of the United States—

(1) to eliminate barriers that prevent recipients of Aid to Families with Dependent Children (AFDC) from becoming self-sufficient through self-employment and asset accumulation;

(2) to identify and implement cost-effective strategies to encourage saving and entrepreneurship among the broadest possible range of low-income families, particularly families eligible for AFDC, and that have the potential to reduce Federal spending on transfers and services to the disadvantaged;

(3) to enhance private-sector opportunities for low-income families by enabling them to use their own human and financial resources through expansion of business investment, job creation, home ownership, and human capital investment; and

(4) to expand the capacity of local organizations to provide asset-related services that help people to help themselves such as savings mechanisms, loan funds, technical assistance, and entrepreneurial training.

(b) STATEMENT OF PURPOSE.—The purpose of the demonstration projects authorized under this title is to provide for a means of determining—

(1) the social, psychological, and economic effects of providing low-income individuals the opportunity to accumulate assets and develop and utilize entrepreneurial skills; and

(2) the extent to which an asset-based assistance policy may be used to enable individuals with low-income to achieve economic self-sufficiency.

SEC. 733. INDIVIDUAL DEVELOPMENT ACCOUNT DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Not later than one year after the date of enactment of this Act, any State or local government, or any qualified organization may apply to the Administrator/Chairperson of the Community Development Bank and Financial Institutions Fund (hereinafter the Administrator/Chairperson) for a grant to conduct individual development account demonstration projects for eligible persons.

(b) CONTENTS.—Each application shall—

(1) describe the demonstration project;

(2) describe the persons who will participate in the project;

(3) demonstrate the ability of the applicant—

(A) to assist project participants in achieving economic self-sufficiency through the project; and

(B) to assist project participants in developing greater knowledge about savings, investments, and other financial matters;

(C) to oversee the use of grant funds, including the documentation and verification of start-up expenses in the case of entrepreneurial assistance; and

(D) to effectively administer the project;

(4) in the case of a qualified organization, document a commitment by the State in which the project is to be conducted to provide a specified amount of funds to the qualified organization for the project, and any similar commitment made to the qualified organization by any other non-Federal public entity or any private entity;

(5) contain a plan for maintaining data and other information concerning assistance provided to project participants sufficient to evaluate the project and a certification that the applicant will fully cooperate and provide access to all information concerning the project in connection with any evaluation of the project conducted pursuant to subsection (1); and

(6) contain such other information as the Administrator/Chair may prescribe.

(c) CRITERIA.—In considering whether to approve an application, the Administrator/Chairperson shall assess the following:

(1) The degree to which the project described in the application is likely to aid project participants in achieving economic self-sufficiency through activities requiring qualified expenses. In making such assessment, the Administrator/Chairperson shall consider the overall quality of project activities and shall not consider any particular kind or combination of such qualified expenses to be an essential feature of any project.

(2) The ability of the applicant to responsibly administer the project.

(3) The amount of funds from non-Federal sources that are committed to the project.

(4) The adequacy of the plan for maintaining information necessary to evaluate the project.

(d) APPROVAL.—

(1) The Administrator/Chairperson shall, on a competitive basis, approve such applications to conduct demonstration projects under this section as the Administrator/Chairperson deems appropriate on the basis of the criteria described in subsection (c).

(2) No court shall have jurisdiction to review the approval or nonapproval of any application by the Administrator/Chairperson.

(e) DEMONSTRATION AUTHORITY; ANNUAL GRANTS.—

(1) DEMONSTRATION AUTHORITY.—The approval by the Administrator of an application shall authorize the applicant (hereinafter the grantee) to conduct the project for five project years in accordance with the approved application and the requirements of this section.

(2) ANNUAL GRANTS.—The Administrator/Chairperson shall make a grant to each grantee on the first day of each project year.

(f) RESERVE FUND.—

(1) ESTABLISHMENT.—Each grantee shall establish a reserve fund that shall be used in accordance with this subsection.

(2) DEPOSITS.—

(A) as soon after receipt as is practicable, a grantee shall deposit into the reserve fund—

(i) all annual grants made by the Administrator/Chairperson;

(ii) all funds provided to the grantee by any non-Federal public or private entity to conduct the demonstration project;

(iii) all proceeds from any investments made pursuant to paragraph (4); and

(iv) all amounts title to which vests in the grantee pursuant to subsection (h)(5).

(3) EXPENDITURES.—A grantee shall use amounts in the reserve fund only—

(A) to assist project participants in obtaining the skills and information necessary to achieve economic self-sufficiency through activities requiring the payment of qualified expenses;

(B) to provide financial assistance in accordance with subsection (h) to project participants;

(C) to administer the project; and

(D) to maintain and provide information necessary for the evaluation of the project pursuant to subsection (1).

(4) ACCOUNTING STANDARDS.—The Administrator/Chairperson shall prescribe regulations governing the accounting of amounts

deposited in and withdrawn from reserve funds.

(5) TERMINATION OF PROJECT.—Notwithstanding paragraph (3), upon the termination of any demonstration project approved under this section, remaining amounts in the reserve fund established with respect to such project and remaining investments made from amounts in the reserve fund shall be distributed to the Administrator/Chairperson and each non-Federal public or private entity that contributed to the project in proportion to their contributions.

(g) SELECTION OF ELIGIBLE PERSONS TO RECEIVE ASSISTANCE.—A grantee shall provide individual development account assistance to eligible persons whom the grantee deems to be best situated to benefit from such assistance, taking into account the amount of grants made by the Administrator/Chairperson and other funds available to the grantee for such assistance.

(h) FINANCIAL ASSISTANCE FOR INDIVIDUAL DEVELOPMENT ACCOUNTS.—

(1) IN GENERAL.—A grantee shall provide initial financial assistance to a project participant who establishes an individual development account, not to exceed $500 per participant. Such financial assistance shall be deposited in the individual development account established by a project participant.

(2) MATCHING CONTRIBUTIONS.—The Administrator/Chairperson or a grantee may make matching contributions of not less than 50 cents and not more than $4 for every $1 deposited into an individual development account by a project participant, not to exceed $2,500 for any project participant.

(3) LIMITATION ON USE.—

(A) Financial assistance provided pursuant to paragraph (1) shall not be available for use by a project participant until—

(i) the individual development account is closed; and

(ii) a project participant has deposited into the individual development account an amount equal to the initial financial assistance provided pursuant to paragraph (1).

(B) Financial assistance provided pursuant to paragraph (1) or (2) shall be used by a project participant only for the payment of qualified expenses.

(4) APPLICABILITY OF OTHER LAW.—The provisions of section 529 of the Internal Revenue Code of 1986 (26 U.S.C. 529) and such rules, regulations and procedures as may be prescribed by the Secretary of the Treasury under such Code shall apply to an individual development account for which financial assistance is provided pursuant to this subsection.

(5) EFFECT OF PROHIBITED TRANSACTIONS.—In the event that an individual development account ceases to be an individual development account under the provisions of section 529(e)(2) of the Internal Revenue Code of 1986 (26 U.S.C. 529(e)(2)), or any portion of an individual development account is treated as distributed under the provisions of section 529(e)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 529(e)(3)), title to all amounts in such an account, or such portion of an account, attributable to financial assistance provided pursuant to paragraph (1) or (2) shall vest in the grantee providing financial assistance pursuant to paragraph (1) and such amounts shall be paid to such grantee.

(i) LOCAL CONTROL OVER DEMONSTRATION.—

(1) Each grantee shall, subject to the provisions of subsection (k), have sole responsibility for the administration of demonstration projects approved by the Administrator/Chairperson.

(2) The Administrator/Chairperson may prescribe such regulations as may be necessary to ensure that grantees comply with the terms of approved applications and the requirements of this section.

(j) ANNUAL REPORTS.—

(1) IN GENERAL.—Each grantee shall annually report to the Administrator/Chairperson concerning the progress of each approved demonstration project administered by such grantee. The report shall, at a minimum—

(A) describe project participants;

(B) contain an audited financial statement for the reserve fund established with respect to the project;

(C) provide information on amounts deposited in individual development accounts of project participants to whom such assistance is provided under the project; and

(D) such other information as the Administrator/Chairperson may require with respect to the evaluation of the project pursuant to subsection (1).

(2) SUBMISSION.—Reports required by paragraph (1) shall be submitted annually not later than the anniversary of the date the Administrator/Chairperson approved the application for the demonstration project.

(3) COORDINATION WITH STATE GOVERNMENT.—A grantee shall transmit a copy of each report required by paragraph (1) to the Treasurer (or equivalent official) of the State in which the project is conducted at the time prescribed by paragraph (2).

(k) SANCTIONS.—

(1) REVOCATION OF DEMONSTRATION AUTHORITY.—If the Administrator/Chairperson determines a grantee not conducting a demonstration project in accordance with the approved application and the requirements of this section, and has failed to undertake corrective action satisfactory to the Administrator/Chairperson, the Administrator/Chairperson may revoke the approval for a demonstration project shall not be subject to review by any court.

(2) ACTIONS REQUIRED UPON REVOCATION.—

(A) If the Administrator/Chairperson revokes approval to conduct a demonstration project pursuant to paragraph (1), the Administrator/Chairperson—

(i) shall suspend the project;

(ii) shall take control of the reserve fund established pursuant to subsection (f) with respect to such project; and

(iii) shall solicit applications from entities described in subsection (a) to conduct the suspended project in accordance with the approved application (or under such terms and conditions as the Administrator may prescribe) and the requirements of this section.

(B) If the Administrator/Chairperson approves an application to conduct the suspended project, the Administrator/Chairperson shall transfer to the new grantee control of the reserve fund established pursuant to subsection (f) for the project, and such grantee shall be considered to be the original grantee for purposes of this section. The date the Administrator/Chairperson approved the application of the new grantee to conduct the suspended project shall apply for purposes of the annual reports required by subsection (j).

(C) If the Administrator/Chairperson has not approved an application to conduct a project by the date that is one year after approval to conduct the project was revoked, the Administrator/Chairperson shall—

(i) terminate the project; and

(ii) distribute remaining amounts in the reserve fund for such project and investments made from amounts in the reserve fund in accordance with the provisions of subsection (f)(6).

(l) PROJECT EVALUATIONS.—

(1) IN GENERAL.—Not later than six months after the date of enactment of this Act, the Administrator/Chairperson, in consultation with the Secretary of the Treasury and the Secretary of the Department of Health and Human Services, shall enter into a contract with an independent organization (hereinafter "evaluator") for the evaluation of individual demonstration projects conducted pursuant to this section and the effectiveness of assistance provided to eligible persons pursuant to this section.

(2) EVALUATIONS.—In entering into the contract provided for in paragraph (1), the Administrator/Chairperson should consider providing for evaluation of—

(A) the types of information and public education efforts that attract project participants;

(B) the accessibility of the demonstration project by participants and the ease of participation;

(C) the level of financial assistance required to stimulate participation in the demonstration project, and whether such level varies among different demographic populations;

(D) whether project features utilized in conjunction with individual development accounts (such as peer support, structured planning exercises, mentoring, and case management) contribute to participation in the project;

(E) the level of self-sufficiency achieved by project participants as measured by employment or self-employment rates, earned and investment income, exit rates, poverty rates, and recidivism rates, particularly for program participants eligible for food stamp benefits and AFDC;

(F) the reduction in the level of public expenditure on project participants as measured by changes in overall support payments including AFDC, food stamp benefits, Federal child care assistance, Federal housing assistance, JOBS, and other benefits, taking into account costs incurred by the Federal Government in support of demonstration projects;

(G) the level of asset accumulation by project participants as measured by savings rates, net worth, business start-ups, human capital investments, new homes, number of loans to low-income and AFDC eligible families, and whether asset accumulation continued after a subsidy or other assistance;

(H) the economic, psychological, and social effects of asset accumulation; and

(I) the circumstances concerning and the extent to which asset accumulation by project participants contributes to—

(i) a greater sense of security and control and positive outlook;

(ii) greater household stability;

(iii) increased long-term planning;

(iv) increased efforts to maintain and develop assets;

(v) greater knowledge about savings, investments, and other financial matters;

(vi) increased effort and success in educational achievement within the household;

(vii) increased specialization in career development;

(viii) improved social status;

(ix) increased political participation;

(x) increased community involvement;

(xi) increased earned income;

(xii) decreased reliance on traditional forms of public assistance, with particular emphasis on food stamp benefits and AFDC; and

(xiii) increased tendency to save during and after the period of project participation.

(3) METHODOLOGICAL REQUIREMENT.—In evaluating any demonstration project conducted under this section, the evaluator

should obtain such quantitative data before, during, and after the project, as is necessary to evaluate the project and include randomly assigned control groups.

(m) DEFINITIONS.—As used in this section:

(1) HOUSEHOLD.—The term "household" means all individuals who share use of a dwelling unit as primary quarters for living and eating separately from other individuals in the living quarters.

(2) NET WORTH.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "net worth" means, with respect to a household, the aggregate fair market value of all assets that are owned in whole or in part by any member of the household, less the obligations or debts of any member of the household.

(B) ASSETS EXCLUDED.—Net worth shall be determined without taking into account the fair market value and the obligations or debts of—

(i) the primary dwelling unit of the household;

(ii) the motor vehicle having the greatest equity value; and

(iii) items essential for daily living, such as clothes, furniture, and similar items of limited value.

(3) INDIVIDUAL DEVELOPMENT ACCOUNT.—The term "individual development account" shall have the same meaning given such term in section 529 of the Internal Revenue Code of 1986 (26 U.S.C. 529).

(4) PROJECT YEAR.—The term "project year" means with respect to a demonstration project, any of the six consecutive 12-month periods beginning on the date the project is approved by the Administrator.

(5) QUALIFIED ORGANIZATION.—The term "qualified organization" means a community development financial institution as defined in section of the Community Development Banking and Financial Institutions Act of 1994.

(6) ELIGIBLE PERSON DEFINED.—The term "eligible person" means any person who is a member of a household that meets all of the following requirements:

(A) EITC TEST.—The household has at least one individual who is an eligible individual within the meaning of section 32(c)(1) of the Internal Revenue Code of 1986 for purposes of the earned income tax credit.

(B) INCOME TEST.—The household did not have adjusted gross income (as determined pursuant to the Internal Revenue Code of 1986) in the immediately preceding calendar year in excess of $18,000.

(C) NET WORTH TEST.—The net worth of the household, as of the close of the immediately preceding calendar year, did not exceed $20,000.

(7) QUALIFIED EXPENSES.—The term "qualified expenses" shall have the same meaning as provided in section 529(c)(1) of the Internal Revenue Code of 1986 (26 U.S.C. 529(C)(1)).

(n) AUTHORIZATION OF APPROPRIATIONS.—To carry out the purposes of this section there are authorized to be appropriated to the Administrator/Chairperson—

(1) $10,000,000 for fiscal year 1997,

(2) $20,000,000 for each of fiscal years 1998, 1999, 2000, and 2001, and

(3) $10,000,000 for fiscal year 2002.

SEC. 734. INDIVIDUAL DEVELOPMENT ACCOUNTS.

(a) IN GENERAL.—Subchapter F of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by adding at the end of the following new part:

"PART VIII—INDIVIDUAL DEVELOPMENT ACCOUNTS

"SEC. 529. INDIVIDUAL DEVELOPMENT ACCOUNTS.

"(a) ESTABLISHMENT OF ACCOUNTS.—

"(1) IN GENERAL.—An individual development account may be established by or on behalf of an eligible individual for the purpose of accumulating funds to pay the qualified expenses of such individual.

"(2) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means an individual—

"(A) for whom assistance is provided under section 733(h) of the Individual Development Account Demonstration Act;

"(B) receiving assistance under 42 U.S.C. 601 et seq.; or

"(C) receiving assistance under 7 U.S.C. 2011 et seq.

"(b) LIMITATIONS.—

"(1) ACCOUNT TO BENEFIT ONE INDIVIDUAL.—An individual development account may not be established for the benefit of more than one individual.

"(2) MULTIPLE ACCOUNTS.—If, at any time during a calendar year, two or more individual development accounts are maintained for the benefit of an eligible individual, such individual shall be treated as an eligible individual for such year only with respect to the account first established.

"(3) WHO MAY CONTRIBUTE.—Contributions to an individual development account, other than contributions made pursuant to section 733(h) of the Individual Development Account Demonstration Act, may be made only by an eligible individual and in the case of an eligible individual described in subsection (e)(2)(A), by another eligible individual who is a member of the same household as the eligible individual.

"(4) ANNUAL LIMIT.—Contributions to an individual development account by or on behalf of an eligible individual for any taxable year shall not exceed the lesser of $1,000 or 100% of the earned income, within the meaning of section 32(c)(2), of the eligible individual making such contribution. No contribution to the account under section 733(h) of the Individual Development Account Demonstration Act shall be taken into account for the purposes of this limitation. No contribution may be made to an individual development account by or on behalf of any individual after such individual has ceased to be an eligible individual.

"(5) LIMIT ON TOTAL CONTRIBUTIONS.—Total contributions to an individual development account for all years may not exceed $10,000.

"(c) DEFINITIONS AND SPECIAL RULES.—For the purposes of this section—

"(1) QUALIFIED EXPENSES.—In the case of an eligible individual described in subsection (a)(2)(A), the term 'qualified expenses' means one or more of the expenses described in subparagraphs (A), (B), (C), and (D), as provided by the entity providing assistance to the eligible individual under section 733(h) of the Individual Development Account Demonstration Act. In the case of any other eligible individual, the term 'qualified expenses' means one or more of the expenses described in subparagraphs (A), (B), (C), and (D).

"(A) POST-SECONDARY EDUCATION EXPENSES.—Post-secondary educational expenses paid from an individual development account directly to an eligible educational institution. For the purposes of this subparagraph—

"(i) the term 'post-secondary educational expenses' means—

"(I) tuition and fees required for the enrollment or attendance of a student at an eligible educational institution;

"(II) fees, books, supplied, equipment required for courses of instruction at an eligible educational institution; and

"(III) a reasonable allowance for meals, lodging, transportation, and child care, while attending an eligible educational institution; and

"(ii) the term 'eligible educational institution' means—

"(I) an institution described in section 481(a)(1) or 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1) or 1141(a)), as such sections are in effect on the date of the enactment of this section; and

"(II) an area vocational education school (as defined in subparagraph (C) or (D) of section 521(4) of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990 (20 U.S.C. 2471 (4))) in any State (as defined in section 521(33) of such Act), as such section is in effect on the date of the enactment of this section.

"(B) FIRST-HOME PURCHASE.—Qualified acquisition costs with respect to a qualified principal residence for a qualified first-time homebuyer, if paid from an individual development account directly to the persons to whom the amounts are due. For purposes of this subparagraph—

"(i) the term 'qualified acquisition costs' means the costs of acquiring, construction, or reconstructing a residence, and includes any usual or reasonable settlement, financing, or other closing costs;

"(ii) the term 'qualified principal residence' means a principal residence (within the meaning of section 1034), the qualified acquisition costs of which do not exceed 80 percent of the average area purchase price applicable to such residence (determined in accordance with paragraphs (2) and (3) of section 143(e));

"(iii) the term 'qualified first-time homebuyer' means a taxpayer (and, if married, the taxpayer's spouse) who has no present ownership interest in a principal residence during the three-year period ending on the date on which a binding contract was entered into to acquire, construct, or reconstruct the principal residence to which this subparagraph applies.

"(C) BUSINESS CAPITALIZATION.—Amounts paid from an individual development account directly into a business capitalization account which is established in a federally insured financial institution and is restricted to use solely for qualified business capitalization expenses. For purposes of this subparagraph—

"(i) the term 'qualified business capitalization expenses' means qualified expenditures for the capitalization of a qualified business pursuant to a qualified plan;

"(ii) the term 'qualified expenditures' means expenditures included in a qualified plan, including capital, plant, equipment, working capital, and inventory expenses;

"(iii) the term 'qualified business' means any business that does not contravene any law or public policy (as determined by the Administrator of the Community Development Bank and Financial Institutions Fund);

"(iv) the term 'qualified plan' means a business plan—

"(I) that is approved by a financial institution, or any other institution designated as a community development financial institution, having demonstrated fiduciary integrity;

"(II) that includes a description of services or goods to be sold, a marketing plan, and projected financial statements; and

"(III) that may require the eligible individual to obtain assistance of an experienced entrepreneurial advisor.

"(D) TRANSFERS TO IDA'S OF FAMILY MEMBERS.—Amounts in an individual development account may be paid or transferred directly into another such account established

for the benefit of an eligible individual who is—

"(i) the taxpayer's spouse; or

"(ii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151.

"(2) INDIVIDUAL DEVELOPMENT ACCOUNT.—The term 'individual development account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified expenses of an individual who was an eligible individual at the time when contributions were made to such trust, but only if the written instrument creating the trust meets the following requirements:

"(A) No contribution will be accepted unless it is in cash or check.

"(B) The trustee is a financial institution insured by an instrumentality of the Federal Government.

"(C) The assets of the account will be invested only in federally insured deposits and/or stock of a regulated investment company within the meaning of section 851(a), in accordance with the direction of the eligible individual.

"(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(E) Except as provided in subparagraph (F), any amount in the account which is attributable to assistance provided under section 733(h) of the Individual Development Account Demonstration Act may be paid or distributed out of the account only for the purpose of paying the qualified expenses of the eligible individual.

"(F)(i) Any balance in the account on the day after the date on which the individual for whose benefit the trust is established dies will be transferred within 60 days of such date as directed by such individual to another individual development account established for the benefit of an individual who is a family member described in subsection (c)(1)(D) and who is an eligible individual, or who was an eligible individual on the day immediately preceding the date on which the individual for whose benefit the trust is established dies.

"(ii) In any case where clause (i) does not apply, the portion of the account attributable to contributions other than those provided under section 733(h) of the Individual Development Account Demonstration Act shall be paid out within five years of the date of death to the beneficiaries of the individual for whose benefit the account was established, and the balance shall vest in the grantee providing assistance under section 733(h) of the Individual Development Account Demonstration Act and shall be paid to such grantee within 60 days of the day after the date of death.

"(3) TIME WHEN CONTRIBUTIONS DEEMED MADE.—A taxpayer shall be deemed to have made a contribution to an individual development account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, any amount paid or distributed out of an individual development account shall be included in gross income of the payee or distributee for the taxable year in the manner provided in section 72.

"(2) TREATMENT OF ASSISTANCE CONTRIBUTIONS.—

"(A) DISTRIBUTIONS USED TO PAY QUALIFIED EXPENSES.—If a distribution or payment from an individual development account is used exclusively to pay the qualified expenses incurred by the individual for whose benefit the account is established, then, for purposes of section 72, assistance contributions made to such individual development account under section 733(h) of the Individual Development Account Demonstration Act shall be treated in the same manner as contributions made by the individual.

"(B) DISTRIBUTIONS NOT USED TO PAY QUALIFIED EXPENSES.—If a distribution or payment from an individual development account is not used exclusively to pay the qualified expenses incurred by the individual for whose benefit the account is established, then, for purposes of section 72, assistance contributions made to such individual development account under section 733(h) of the Individual Development Account Demonstration Act shall be treated in the same manner as earnings on the account.

"(e) TAX TREATMENT OF ACCOUNTS.—

"(1) EXEMPTION FROM TAX.—An individual development account is exempt from taxation under this subtitle unless such account has ceased to be an individual development account by reason of paragraph (2). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) LOSS OF EXEMPTION OF ACCOUNT WHERE INDIVIDUAL ENGAGES IN PROHIBITED TRANSACTION.—

"(A) IN GENERAL.—If the individual for whose benefit an individual development account is established or any individual who contributes to such account engages in any transaction prohibited by section 4975 with respect to the account, the account shall cease to be an individual development account as of the first day of the taxable year (of the individual so engaging in such transaction) during which such transaction occurs.

"(B) ACCOUNT TREATED AS DISTRIBUTING ALL ITS ASSETS.—In any case in which any account ceases to be an individual development account by reason of subparagraph (A) as of the first day of any taxable year—

"(i) all assets in the account on such first day that are attributable to assistance provided under section 733(h)(1) and (2) of the Individual Development Account Demonstration Act shall be paid as provided in section 733(h)(5) of such Act; and

"(ii) the provisions of subsection (d)(1) shall apply as if there was a distribution on such first day in an amount equal to the fair market value of all other assets in the account on such first day.

"(3) EFFECT OF PLEDGING ACCOUNT AS SECURITY.—If, during any taxable year, the individual for whose benefit an individual development account is established, or any individual who contributes to such account, uses the account or any portion thereof as security for a loan—

"(A) an amount equal to the part of the portion so used which is attributable to assistance provided under section 733(h)(1) and (2) of the Individual Account Demonstration Act shall be paid as provided in section 733(h)(5) of such Act; and

"(B) the remaining part of the portion so used shall be treated as distributed under the provisions of subsection (d)(1) to the individual so using such portion.

"(f) ADDITIONAL TAX ON CERTAIN AMOUNTS INCLUDED IN GROSS INCOME.—

"(1) DISTRIBUTION NOT USED FOR QUALIFIED EXPENSES.—In the case of any payment or distribution that is not used exclusively to pay qualified expenses incurred by the eligible individual for whose benefit the account is established, the tax liability of each payee or distributee under this chapter for the taxable year in which the payment or distribution is received shall be increased by an amount equal to 10 percent of the amount of the distribution that is included in the gross income of such payee or distributee for such taxable year.

"(2) DISQUALIFICATION CASES.—If any amount includible in the gross income of an individual for a taxable year because such amount is required to be treated as a distribution under paragraph (2) or (3) of subsection (e), the tax liability of such individual under this chapter for such taxable year shall be increased by an amount equal to 10 percent of such amount required to be treated as a distribution and included in the gross income of such individual.

"(3) DISABILITY OR DEATH CASES.—Paragraphs (1) and (2) shall not apply if the payment or distribution is made after the individual for whose benefit the individual development account becomes disabled within the meaning of section 72(m)(7) or dies.

"(g) COMMUNITY PROPERTY LAWS.—This section shall be applied without regard to any community property laws.

"(h) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in section 408(n)) or another person who demonstrates, to the satisfaction of the Administrator of the Community Development Bank and Financial Institutions Fund, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute an individual development account described in subsection (c)(2). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(i) REPORTS.—

"(1) The trustee of an individual development account established by or on behalf of an eligible individual described in subsection (a)(2)(A) shall—

"(A) prepare reports regarding the account with respect to contributions, distributions, and any other matter required by the Administrator of the Community Development Bank and Financial Institutions Fund under regulations; and

"(B) submit such reports, at the time and in the manner prescribed by the Administrator of the Community Development Bank and Financial Institutions Fund in regulations; to—

"(i) the individual for whose benefit the account is maintained;

"(ii) the organization providing assistance to the individual under section 733(h) of the Individual Development Account Demonstration Act; and

"(iii) the Administrator of the Community Development Bank and Financial Institutions Fund.

"(2) The trustee of any individual development account shall make such reports regarding such account to the Secretary and to the individual for whom the account is, or is to be, maintained with respect to contributions (and the years to which they relate),

distributions, and such other matters as the Secretary may require under forms or regulations. The reports required by this subsection—

"(A) shall be filed at such time and in such manner as the Secretary prescribes in such forms or regulations, and

"(B) shall be furnished to individuals—

"(i) not later than January 31 of the calendar year following the calendar year to which such reports relate, and

"(ii) in such manner as the Secretary prescribes in such forms or regulations.".

(b) CONTRIBUTION NOT SUBJECT TO THE GIFT TAX.—Section 2503 of the Internal Revenue Code of 1986 (26 U.S.C. 2503) (relating to taxable gifts) is amended by adding at the end thereof the following new subsection:

"(h) INDIVIDUAL DEVELOPMENT ACCOUNTS.—Any contribution made by an individual to an individual development account described in section 529(c)(2) shall not be treated as a transfer of property by gift for purposes of this chapter.".

(c) TAX ON PROHIBITED TRANSACTIONS.—Section 4975 of the Internal Revenue Code of 1986 (26 U.S.C. 4975) (relating to prohibited transactions) is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

"(4) SPECIAL RULE FOR INDIVIDUAL DEVELOPMENT ACCOUNTS.—An individual for whose benefit an individual development account is established and any contributor to such account shall be exempt from tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be an individual development account by reason of section 529(e)(2)(A) to such account."; and

(2) in subsection (e)(1), by inserting ", an individual development account described in section 529(c)(2)" after "section 408(a)".

(d) INFORMATION REPORTING.—Section 6047 of the Internal Revenue Code of 1986 (26 U.S.C. 6693) (Relating to information returns) is amended by adding at the end of subsection (c) the following new sentence: "To the extent provided by forms or regulations prescribed by the Secretary, the provisions of this section shall apply to any transaction of any trust described in section 529.".

(e) FAILURE TO PROVIDE REPORTS ON INDIVIDUAL DEVELOPMENT ACCOUNTS.—Section 6693 of the Internal Revenue Code of 1986 (26 U.S.C. 6693) (relating to failure to provide reports on individual retirement accounts or annuities) is amended—

(1) in the heading of such section, by inserting "OR ON INDIVIDUAL DEVELOPMENT ACCOUNTS" after "ANNUITIES"; and

(2) by adding at the end of subsection (a) the following new sentence: "The person required by section 529(i) to file a report regarding an individual development account at the time and in the manner required by such section shall pay a penalty of $50 for each failure, unless it is shown that such failure is due to reasonable cause.".

(f) SPECIAL RULE FOR DETERMINING AMOUNTS OF SUPPORT FOR DEPENDENT.—Section 152(b) of the Internal Revenue Code of 1986 (26 U.S.C. 152(b)) (relating to definition of dependent) is amended by adding at the end the following new paragraph:

"(6) A distribution from an individual development account described in section 529(c)(2) used exclusively to pay qualified expenses described in section 529(c)(1) of the individual for whose benefit the account is established shall not be taken into account in determining support for such individual for purposes of this section.".

(g) CLERICAL AMENDMENTS.—

(1) The table of parts for subchapter F of chapter 1 of such Code is amended by inserting at the end the following new item:

"Part VIII. Individual Development Accounts.".

(2) The table of sections for subchapter B of chapter 68 of such Code is amended by amending the item relating to section 6693 to read as follows:

"Sec. 6693. Failure to provide reports on individual development accounts or annuities or on individual development accounts.".

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after the enactment of the Act.

PART D—ADVANCE EITC STATE DEMONSTRATIONS

SEC. 741. ADVANCE PAYMENT OF EARNED INCOME TAX CREDIT THROUGH STATE DEMONSTRATION PROGRAMS.

(A) IN GENERAL.—Section 3507 (relating to the advance payment of the earned income tax credit) of the Internal Revenue Code of 1986 is amended by adding at the end the following subsection (g);

"(g) STATE DEMONSTRATIONS.—

"(1) IN GENERAL.—In lieu of receiving earned income advance amounts from an employer under subsection (a), a participating resident shall receive advance earned income payments from a responsible State agency pursuant to a State Advance Payment Program that is designated pursuant to paragraph (2).

"(2) DESIGNATIONS.—

"(A) IN GENERAL.—From among the States submitting proposals satisfying the requirements of subsection (g)(3), the Secretary (in consultation with the Secretary of Health and Human Services) may designate not more than 4 State Advance Payment Demonstrations. States selected for the demonstrations may have, in the aggregate, no more than 5 percent of the total number of households participating in the program under the Food Stamp program in the immediately preceding fiscal year. Administrative costs of a State in conducting a demonstration under this section may be included for matching under section 403(a) of the Social Security Act and section 16(a) of the Food Stamp Act of 1977.

"(B) WHEN DESIGNATION MAY BE MADE.—Any designation under this paragraph shall be made no later than December 31, 1995.

"(C) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(i) IN GENERAL.—Designations made under this paragraph shall be effective for advance earned income payments made after December 31, 1995, and before January 1, 1999.

"(ii) SPECIAL RULES.—

"(I) REVOCATION OF DESIGNATIONS.—The Secretary may revoke the designation under this paragraph if the Secretary determines that the State is not complying substantially with the proposal described in paragraph (3) submitted by the State.

"(II) AUTOMATED TERMINATION OF DESIGNATIONS.—Any failure by a State to comply with the reporting requirements described in paragraphs (3)(F) and (3)(G) has the effect of immediately terminating the designation under this paragraph (2) and rendering paragraph (5)(A)(ii) inapplicable to subsequent payments.

"(3) PROPOSALS.—No State may be designated under subsection (g)(2) unless the State's proposal for such designation—

"(A) identifies the responsible State agency,

"(B) describes how and when the advance earned income payments will be made by that agency, including a description of any other State or Federal benefits with which such payments will be coordinated,

"(C) describes how the State will obtain the information on which the amount of advance earned income payments made to each participating resident will be determined in accordance with paragraph (4),

"(D) describes how State residents who will be eligible to receive advance earned income payments will be selected, notified of the opportunity to receive advance earned income payments from the responsible State agency, and given the opportunity to elect to participate in the program,

"(E) describes how the State will verify, in addition to receiving the certifications and statement described in paragraph (7)(D)(iv), the eligibility of participating residents for the earned tax credit,

"(F) commits the State to furnishing to each participating resident to the Secretary by January 31 of each year a written statement showing—

"(i) the name and taxpayer identification number of the participating resident, and

"(ii) the total amount of advance earned income payments made to the participating resident during the prior calendar year,

"(G) commits the State to furnishing to the Secretary by December 1 of each year a written statement showing the name and taxpayer identification number of each participating resident,

"(H) commits the State to treat the advanced earned income payments as described in subsection (g)(5) and any repayments of excessive advance earned income payments as described in subsection (g)(6),

"(I) commits the State to assess the development and implementation of its State Advance Payment Program, including an agreement to share its findings and lessons with other interested States in a manner to be described by the Secretary, and

"(J) is submitted to the Secretary on or before June 30, 1995.

"(4) AMOUNT AND TIMING OF ADVANCE EARNED INCOME PAYMENTS.—

"(A) AMOUNT.—

"(i) IN GENERAL.—The method for determining the amount of advance earned income payments made to each participating resident is to conform to the full extent possible with the provisions of subsection (c).

"(ii) SPECIAL RULE.—A State may, at its election, apply the rules of subsection (c)(2)(B) by substituting 'between 60 percent and 75 percent of the credit percentage in effect under section 32(b)(1) for an individual with the corresponding number of qualifying children' for '60 percent of the credit percentage in effect under section 32(b)(1) for such an eligible individual with 1 qualifying child' in clause (i) and 'the same percentage (as applied in clause (i))' for '60 percent' in clause (ii).

"(B) TIMING.—The frequency of advance earned income payments may be made on the basis of the payroll periods of participating residents, on a single Statewide schedule, or on any other reasonable basis prescribed by the State in its proposal; however, in no event may advanced earned income payments be made to any participating resident less frequently than on a calendar-quarter basis.

"(5) PAYMENTS TO BE TREATED AS PAYMENTS OF WITHHOLDING AND FICA TAXES.—

"(A) IN GENERAL.—For purposes of this title, advanced earned income payments during any calendar quarter—

"(i) shall neither be treated as a payment of compensation nor be included in gross income, and

"(ii) shall be treated as made out of—

"(I) amounts required to be deducted by the State and withheld for the calendar quarter by the State under section 3401 (relating to wage withholding), and

"(II) amounts required to be deducted for the calendar quarter under section 3102 (relating to FICA employee taxes), and

"(III) amounts of the taxes imposed on the State for the calendar quarter under section 3111 (relating to FICA employer taxes),

as if the State had paid to the Secretary, on the day on which payments are made to participating residents, an amount equal to such payments.

"(B) ADVANCE PAYMENTS EXCEED TAXES DUE.—If for any calendar quarter the aggregate amount of advance earned income payments made by the responsible State agency under a State Advance Payment Program exceeds the sum of the amounts referred to in subparagraph (A)(ii) (without regard to paragraph (6)(A)), each such advance earned income payment shall be reduced by an amount which bears the same ratio to such excess as such advance earned income payment bears to the aggregate amount of all such advance earned income payments.

"(6) STATE REPAYMENT OF EXCESSIVE ADVANCE EARNED INCOME PAYMENTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of an excessive advance earned income payment a State shall be treated as having deducted and withheld under section 3401 (relating to wage withholding), and therefore is required to pay to the United States, the repayment amount during the repayment calendar quarter.

"(B) EXCESSIVE ADVANCE EARNED INCOME PAYMENT.—For purposes of this section, an excessive advance income payment is that portion of any advance earned income payment that, when combined with other advance earned income payments previously made to the same participating resident during the same calendar year, exceeds the amount of earned income tax credit to which that participating resident is entitled under section 32 for that year.

"(C) REPAYMENT AMOUNT.—The repayment amount is equal to 50 percent of the excess of—

"(i) excessive advance earned income payments made by a State during a particular calendar year, over

"(ii) the sum of—

"(I) 4 percent of all advance earned income payments made by the State during that calendar year, and

"(II) the excessive advance earned income payments made by the State during that calendar year that have been collected from participating residents by the Secretary.

"(D) REPAYMENT CALENDAR QUARTER.—The repayment calendar quarter is the second calendar quarter of the third calendar year after the calendar year in which an excessive earned income payment is made.

"(7) DEFINITIONS.—For purposes of this section—

"(A) STATE ADVANCE PAYMENTS PROGRAM.—The term 'State Advance Payment Program' means the program described in a proposal submitted for designation under paragraph (1) and designated by the Secretary under paragraph (2).

"(B) RESPONSIBLE STATE AGENCY.—The term 'responsible State agency' means the single State agency that will be making the advance earned income payments to residents of the State who elect to participate in a State Advance Payment Program.

"(C) ADVANCE EARNED INCOME PAYMENTS.—The term 'advance earned income payments' means an amount paid by a responsible State agency to residents of the State pursuant to a State Advance Payment Program.

"(D) PARTICIPATING RESIDENT.—The term 'participating resident' means an individual who—

"(i) is a resident of a State that has in effect a designated State Advance Payment Program.

"(ii) makes the election described in paragraph (3)(C) pursuant to guidelines prescribed by the State,

"(iii) certifies to the State the number of qualifying children the individual has, and

"(iv) provides to the State the certifications and statement set forth in subsections (b)(1), (b)(2), (b)(3), and (b)(4) (except that for purposes of this clause (iv), the term 'any employer' shall be substituted for 'another employer' in subsection (b)(3)), along with any other information required by the State.".

(b) TECHNICAL ASSISTANCE.—The Secretaries of Treasury and Health and Human Services shall jointly ensure that technical assistance is provided to State Advance Payment Programs and that these programs are rigorously evaluated.

(c) ANNUAL REPORTS.—The Secretary shall issue annual reports detailing the extent to which—

(1) residents participate in the State Advance Payment Programs,

(2) participating residents file federal and State tax returns,

(3) participating residents report accurately the amount of the advance earned income payments made to them by the responsible State agency during the year, and

(4) recipients of excessive advance earned income payments repaid those amounts.

The report shall also contain an estimate of the amount of advance earned income payments made by each responsible State agency but not reported on the tax returns of a participating resident and the amount of excessive advance earned income payments.

(d) AUTHORIZATION OF APPROPRIATIONS.—For purposes of providing technical assistance described in subsection (b), preparing the reports described in subsection (c), and providing grants to States in support of designated State Advance Payment Programs, there are authorized to be appropriated in advance to the Secretary of the Treasury and the Secretary of Health and Human Services a total of $1,400,000 for fiscal year 1996 through 1999.

TITLE VIII—SELF EMPLOYMENT/ MICROENTERPRISE DEMONSTRATIONS

SEC. 801. DEMONSTRATION PROGRAM TO PROVIDE SELF-EMPLOYMENT OPPORTUNITIES TO WELFARE RECIPIENTS AND LOW-INCOME INDIVIDUALS.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") and the Administrator of the Small Business Administration (hereinafter in this section referred to as the "Administrator"), shall, subject to the availability of appropriations in advance for this purpose, jointly develop a self-employment/microenterprise demonstration program for at least five years in length that will build on the experience of microenterprise and self-employment programs previously carried out by the Federal Government and other entities. The program shall be designed—

(1) to identify regulatory and other barriers that prevent welfare recipients and low-income individuals from increasing self-sufficiency through self-employment and microenterprise development, and to identify and test effective means to eliminate such barriers;

(2) to develop and evaluate promising program models, based upon existing effective practices, which have the potential to (A) increase the number of welfare recipients and low-income individuals who become self-sufficient or increase self-sufficiency through self-employment and microenterprise development and (B) reduce Federal spending on transfer payments and services to welfare recipients and low-income individuals; and

(3) to demonstrate the potential for expanding the capacity of local organizations to provide services, technical assistance and loans which help welfare recipients and low-income individuals start or expand self-employment or microenterprises.

(b) USE OF INTERMEDIARIES.—To carry out such program, the Secretary and Administrator shall jointly enter into agreements with local intermediaries that—

(1) apply to participate in such program, and

(2) demonstrate that they are capable of implementing the provisions of the agreement.

(c) PROGRAM DESIGN.—In order to facilitate a randomized evaluation, as provided for in subsection (i)(1) below, the Secretary and Administrator shall identify those predominant and effective program models currently used by existing intermediaries to provide self-employment and related services to low-income individuals, and shall design the demonstration program in order to evaluate at least two distinct types of program models with contrasting levels of technical assistance. In designing the demonstration program, the Secretary and Administrator shall consult with appropriate parties, such as—

(1) state and local agencies and private, nonprofit organizations with experience in administering self-employment programs that serve low-income individuals; and

(2) other persons with recognized expertise in conducting randomized evaluations of self-employment programs or other related programs.

(d) ASSISTANCE TO INTERMEDIARIES.—

(1) IN GENERAL.—To carry out the program, the Secretary and Administrator may provide the following assistance to intermediaries selected to participate in the program—

(A) grants for providing technical assistance to eligible individuals, for operating costs and for costs associated with participating in the evaluation provided for in subsection (i)(1) below;

(B) loans guarantees; and

(C) loans.

(2) TECHNICAL ASSISTANCE TO INTERMEDIARIES.—The Secretary and Administrator may provide grants to intermediaries or third-party technical assistance providers for the provision of technical assistance to intermediaries selected to participate in this program.

(3) TERMINATION OF ASSISTANCE.—Assistance awarded pursuant to this section may fully fund project periods of up to five years. The Secretary and Administrator may revoke, terminate or reduce assistance to an intermediary if the intermediary fails to comply with the terms of any agreement it enters into with the Secretary and Administrator.

(e) SELECTION OF INTERMEDIARIES.—

(1) IN GENERAL.—In determining whether to enter into an agreement with an

intermediary under this section, the Secretary and Administrator shall take into consideration—

(A) the intermediary's record of success in serving low-income individuals;

(B) the intermediary's record of success in providing technical assistance or loans to low-income individuals for the purpose of self-employment;

(C) the nature, types, and cost of technical assistance and/or lending methods the intermediary will employ in serving the target population;

(D) the intermediary's ability to obtain matching funds from private sources; and

(E) such other matters as the Secretary and Administrator deem appropriate.

(2) ADDITIONAL PROGRAMS.—In addition to the demonstration program provided for in subsection (c) above, the Secretary and Administrator may select up to five intermediaries that would employ program models that would operate independently of the randomized evaluation provided for in subsection (i)(1) below, where such program models demonstrate promising, innovative strategies that could not readily be evaluated by a randomized experimental design.

(f) ELIGIBLE INDIVIDUALS.—An individual eligible to participate in a program conducted under this section is any low-income individual or welfare recipient. The Secretary and Administrator shall ensure that an appropriate minimum percentage of welfare recipients will participate in each demonstration program funded under this section.

(g) PROVISIONS OF AGREEMENTS.—Any agreement entered into with an intermediary under this section shall provide that—

(1) the intermediary has or will have an agreement with the State agency responsible for administering the job opportunities and basic skills training program (as provided for under part F of title IV of the Social Security Act) (hereinafter in this section referred to as the "JOBS" programs) and the Work Program (as provided under part G of title IV of such Act) such that JOBS and Work program funds will be used to provide support services, including training and technical assistance, to welfare recipients who are participating in the demonstration programs funded under this section;

(2) the intermediary will implement a program that is approved by the Secretary and Administrator;

(3) the intermediary will cooperate with any independent evaluator(s) selected pursuant to subsection (i) below; and

(4) the intermediary will meet any other obligations required by the Secretary and Administrator, including any fund matching requirements.

(h) PROGRAM ADMINISTRATION.—

(1) IN GENERAL.—The Secretary and Administrator shall enter into a memorandum of understanding for the joint administration of the demonstration programs provided for by this section. The designation of intermediaries to participate in the program shall be completed no later than 12 months after the date of appropriation of funds for this Act.

(2) COORDINATION WITH OTHER AGENCIES.—The Secretary and Administrator shall also coordinate and consult with the Secretaries of the Department of Agriculture, the Department of Housing and Urban Development, and the Department of Labor, on regulatory or other reforms or coordinated efforts by such agencies that may further eliminate barriers to self-employment and legitimize microenterprise development by low-income individuals and welfare recipients.

(i) EVALUATION AND REPORT.—

(1) IN GENERAL.—The Secretary, in consultation with the Administrator, shall conduct or provide for an evaluation of the effectiveness of the demonstration program provided for in subsection (c) above and shall prepare and submit to the President and Congress a preliminary report of the evaluation no later than three years following the designation of intermediaries and a final report no later than seven years following such designation, together with such recommendations, including recommendations for legislation, as the Secretary and Administrator deem appropriate. Such evaluation shall be based on an experimental design with random assignment between a treatment group and a control group. In designing the evaluation, the Secretary shall consider testing for—

(A) greater self-sufficiency as measured by employment and self-employment rates, amount of earned income, poverty rates, and exit and recidivism rates for Aid to Families With Dependent Children (hereinafter in this section referred to as "AFDC"), Food Stamps and other public assistance programs;

(B) reduced costs of public support as measured by changes in overall support payments for items such as income maintenance, food, child care, health care, housing, job training and other benefits;

(C) number of businesses and jobs created, number of loans to welfare recipients and low-income individuals, repayment rates for loans, and business performance after welfare or other public assistance ends;

(D) the relative effectiveness, cost-to-benefit ratio, and degree of financial self-sufficiency of the different program models employed by the intermediaries participating in the demonstration program; and

(E) the program's impact and effectiveness in serving participants in a time-limited welfare system, as compared to other low-income individuals.

(2) EVALUATION OF ADDITIONAL PROGRAMS.—The Secretary, in consultation with the Administrator, shall also conduct or provide for an independent evaluation of the effectiveness of any program models selected pursuant to subsection (e)(2) above and shall prepare and submit to the President and Congress a preliminary report of the evaluation no later than three years following the designation of intermediaries, and a final report no later than five years following such designation, together with such recommendations, including recommendations for legislation, as the Secretary and Administrator deem appropriate.

(3) PRELIMINARY REPORTS TO CONGRESS.—The preliminary reports provided for in paragraphs (1) and (2) of this subsection shall include an analysis of any regulatory or other barriers that prevent welfare recipients and low-income individuals from becoming self-sufficient through self-employment and microenterprise development.

(4) REQUIRED INFORMATION.—The Secretary may require each intermediary selected pursuant to this section to provide the Secretary with such information as the Secretary determines is necessary to carrying out the duties of this subsection.

(5) EARLY AND REGULAR INFORMATION SHARING WITH INTERMEDIARIES.—The Secretary, in consultation with the Administrator, shall provide early and regular feedback and summaries to intermediaries selected to participate pursuant to this section of the progress of the evaluation, the data collected during the evaluation, preliminary findings and such other information as the Secretary deems appropriate. The Secretary shall provide such feedback and summaries at least once a year for the life of the demonstration.

(j) AUTHORIZATION OF APPROPRIATIONS.—To carry out the purposes of this section there are authorized to be appropriated to the Secretary and Administrator—

(1) $4,000,000 for fiscal year 1997,

(2) $8,000,000 for each of fiscal years 1998, 1999, 2000, and 2001, and

(3) $4,000,000 for fiscal year 2002.

(k) DEFINITIONS.—For the purposes of this section—

(1) the term "intermediary" means an organization, partnership, or consortium of organizations that acts as a lender and/or as a technical assistance provider to individuals who wish to start or expand a microenterprise;

(2) the term "low-income individual" means an individual whose income level does not exceed 130 percent of the official poverty line as defined by the Office of Management and Budget;

(3) the term "microenterprise" generally means a business that has a net worth of less than $15,000;

(4) the term "technical assistance" as it relates to assisting a welfare recipient or low-income individual to become self-employed includes business technical assistance, entrepreneurial training, and/or personal development services; and

(5) the term "welfare recipient" means a participant in a time-limited welfare program who is eligible for the JOBS or Work program or a person who is receiving assistance from AFDC.

TITLE IX—FINANCING

SEC. 901. LIMITATION ON FEDERAL PAYMENTS FOR EMERGENCY ASSISTANCE.

Section 403(a)(5) of the Act is amended to read as follows:

"(5)(A) Each State shall be entitled to payment from the Secretary in an amount equal to 50 percent of the total amounts expended under the State plan in a fiscal year as emergency assistance to needy families with children, but such payment may not exceed the greater of—

"(i) such State's share of the limitation in subparagraph (B) for such fiscal year, or

"(ii) the amount paid by the Secretary with respect to such State's expenditures for emergency assistance to needy families with children for fiscal year 1991.

"(B) The limitation referred to in subparagraph (A) is $418,000,000 for fiscal year 1995, and for fiscal year 1996 and for each fiscal year thereafter, $418,000,000 multiplied by the ratio of the Consumer Price Index (prepared by the Department of Labor) for the third quarter of the preceding fiscal year to such Index for the third quarter of fiscal year 1994.

"(C) For purposes of this paragraph, a 'State's share of the limitation in subparagraph (B)' for a fiscal year means—

"(i) such State's share of the EA portion of the limitation (as defined in subparagraph (D)), plus

"(ii) such State's share of the AFDC portion of the limitation (as defined in subparagraph (E)) for the fiscal year involved.

"(D) For the purposes of this paragraph, the EA portion of the limitation is—

"(i) for fiscal year 1995 and each fiscal year thereafter, the limitation for such year, multiplied by—

"(I) 90 percent, minus

"(II) 10 percentage points for each year after 1995.

but never less than zero.

"(E) For purposes of this paragraph, the AFDC portion of the limitation is—

"(i) for fiscal year 1995, the limitation for such year, multiplied by 10 percent, and

"(ii) for fiscal year 1996 and each fiscal year thereafter, the limitation for such year multiplied by—

"(I) 10 percent, plus

"(II) 10 percentage points for each year after 1995,

but never more than 100.

"(F) For purposes of this paragraph—

"(i) a State's share of the EA portion of the limitation for a fiscal year is the limitation for such year multiplied by the ratio of the estimated expenditures in such State for emergency assistance to needy families with children for quarters in fiscal year 1994 to the sum of such estimated expenditures in all the States for quarters in such year, and

"(ii) a State's share of the AFDC portion of the limitation for a fiscal year is the limitation for such year multiplied by the ratio of the estimated expenditures in such State for aid to families with dependent children for quarters in the preceding fiscal year to the sum of such expenditures in all the States for quarters in such preceding fiscal year.".

SEC. 902. UNIFORM ALIEN ELIGIBILITY CRITERIA FOR PUBLIC ASSISTANCE PROGRAMS.

(a) FEDERAL AND FEDERALLY-ASSISTED PROGRAMS.—

(1) PROGRAM ELIGIBILITY CRITERIA.—

(A) AID TO FAMILIES WITH DEPENDENT CHILDREN.—Section 402(a)(33) of the Social Security Act is amended by striking "(A) a citizen" and all that follows and inserting the following:

"(A) a citizen or national of the United States,

"(B) a qualified alien (as defined in section 1101(a)(10)), provided that such alien is not disqualified from receiving aid under a State plan approved under a State plan approved under this part by or pursuant to section 210(f) or 245A(h) of the Immigration and Nationality Act or any other provision of law;".

(B) SUPPLEMENTAL SECURITY INCOME.—Section 1614(a)(1)(B)(i) of such Act is amended to read as follows:

"(B)(i) is a resident of the United States, and is either (I) a citizen or national of the United States, or (II) a qualified alien (as defined in section 1101(a)(10)), or".

(C) MEDICAID—

(i) Section 1903(v)(1) of such Act is amended to read as follows:

"(v)(1) Notwithstanding the preceding provisions of this section, (A) no payment may be made to a State under this section for medical assistance furnished to an individual who is disqualified from receiving such assistance by or pursuant to section 210(f) or 245A(h) of the Immigration and Nationality Act or any other provision of law, and (B) except as provided in paragraph (2), no such payment may be made for medical assistance furnished to an individual who is not a (i) citizen or national of the United States, or (ii) qualified alien (as defined in section 1101(a)(10)).".

(ii) Section 1902(v)(2) of such Act is amended by—

(I) striking "paragraph (1)" and inserting "paragraph (1)(B)"; and

(II) striking "alien" each place it appears and inserting "individual".

(iii) Section 1902(a) of such Act is amended in the last sentence by striking "alien" and all that follows and inserting "individual who is not (A) a citizen or national of the United States, or (B) a qualified alien (as defined in section 1101(a)(10)) only in accordance with section 1903(v).".

(iv) Section 1902(b)(3) of such act is amended by inserting "or national" after "citizen".

(2) Definition of term "qualified alien"—Section 1101(a) of such Act is amended by adding at the end the following new paragraph:

"(10) The term 'qualified alien' means an alien—

"(A) who is lawfully admitted for permanent residence within the meaning of section 101(a)(20) of the Immigration and Nationality Act;

"(B) who is admitted as a refugee pursuant to section 207 of such Act;

"(C) who is granted asylum pursuant to section 208 of such Act;

"(D) whose deportation is withheld pursuant to section 243(h) of such Act;

"(E) whose deportation is suspended pursuant to section 255 of such Act;

"(F) who is granted conditional entry pursuant to section 203(a)(7) of such Act as in effect prior to April 1, 1980;

"(G) who is lawfully admitted for temporary residence pursuant to section 210 or 245A of such Act;

"(H) who is within a class of aliens lawfully present within the United States pursuant to any other provision of such Act, provided that—

"(i) the Attorney General determines that the continued presence of such class of aliens serves a humanitarian or other compelling public interest, and

"(ii) the Secretary of Health and Human Services determines that such interest would be further served by treating each alien within such class as a 'qualified alien' for purposes of this Act; or

"(I) who is the spouse or unmarried child under 21 years of age of a citizen of the United States, or the parent of such a citizen if the citizen is 21 years of age or older, and with respect to whom an application for adjustment to lawful permanent residence is pending;

such status not having changed.".

(3) CONFORMING AMENDMENT.—Section 244A(f)(1) of the Immigration and Nationality Act is amended by inserting "and shall not be considered to be a 'qualified alien' within the meaning of section 1101(a)(10) of the Social Security Act" immediately before the semicolon.

(b) STATE AND LOCAL PROGRAMS.—A State or political subdivision therein may provide that an alien is not eligible for any program of assistance based on need that is furnished by such State or political subdivision unless such alien is a "qualified alien" within the meaning of section 1101(a)(10) of the Social Security Act (as added by subsection (a)(2) of this section).

(c) EFFECTIVE DATE.—

(1) The amendments made by subsection (a) are effective with respect to benefits payable on the basis of any application filed after the date of enactment of this Act.

(2) Subsection (b) is effective upon the date of enactment of this Act.

SEC. 903. ELIGIBILITY OF SPONSORED ALIENS FOR CERTAIN PROGRAMS.

(a) Deeming of Sponsor's Income and Resources to an Alien Under the Supplemental Security Income, Aid to Families with Dependent Children, and Food Stamp Programs.

(1) LENGTH OF DEEMING PERIOD.—

(A) MAKING THE SSI 5-YEAR PERIOD PERMANENT.—Subsection (b) of section 7 of the Unemployment Compensation Amendments of 1993 (Public Law 103–152) is repealed.

(B) INCREASING THE AFDC PERIOD FROM 3 TO 5 YEARS—Section 415 of the Social Security Act is amended by striking "three years" each place such phrase appears and inserting "5 years.".

(C) INCEASING THE FOOD STAMP PERIOD FROM 3 TO 5 YEARS.—Section 5(i) of the Food Stamp Act of 1977 is amended by striking "three years" each place such phase appears and inserting "5 years".

(2) INAPPLICABILITY IN THE CASE OF ANY ALIEN WHOSE SPONSOR RECEIVES SSI OR AFDC BENEFITS.—

(A) SSI.—Section 1621(f) of the Social Security Act is amended by adding at the end the following new paragraph:

"(3) The provisions of this section shall not apply to any alien for any month for which such alien's sponsor receives a benefit under this title (which includes, for purposes of this paragraph, the program of federally administered State supplementary payments made pursuant to section 1616(a) of this Act of section 212(b) of Public Law 93–66) or the program of aid to families with dependent children authorized by part A of title IV of this Act.".

(B) AFDC.—Section 415(f) of the Social Security Act is amended—

(i) by redesignating paragraph (1) through (5) as subparagraphs (A) through (E), respectively;

(ii) by striking "(f)" and inserting "(f)(1)"; and

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

"(2) The provisions of this section shall not apply to any alien for any month for which such alien's sponsor receives a benefit under the program authorized by this part, or the program of supplemental security income authorized by title XVI of this Act (which includes, for purposes of this paragraph, the program of federally administered States supplementary payments made pursuant to section 1616(a) of this Act or section 212(b) of Public Law 93–66).".

(C) FOOD STAMPS.—Section 5(i)(2)(E) of the Food Stamp Act of 1977 is amended—

(i) by striking "(E)" and inserting "(E)(i)"; and

(ii) by adding at the end the following:

"(ii) The provisions of this subsection shall not apply to any alien for any month for which such alien's sponsor receives a benefit under the program of aid to families with dependent children authorized by part A of title IV of the Social Security Act or the program of supplemental security income authorized by title XVI of such Act (which includes, for purposes of this paragraph, the program of federally administered State supplementary payments made pursuant to section 1616(a) of such Act or section 212(b) of Public Law 93–66).".

(3) INEQUITABLE CIRCUMSTANCES.—

(A) SSI.—Section 1621 of the Social Security Act is amended by adding at the end the following new subsection:

"(g) The Secretary may, pursuant to regulations promulgated after consultation with the Secretary of Agriculture, alter or suspend the application of this section in any case in which the Secretary determines that such application would be inequitable under the circumstances."

(B) AFDC.—Section 415 of the Social Security Act is amended by adding at the end the following new subsection:

"(g) The Secretary may, pursuant to regulations promulgated after consultation with the Secretary of Agriculture, alter or suspend the application of this section in any case in which the Secretary determines that

such application would be inequitable under the circumstances."

(C) FOOD STAMPS.—Section 5(i)(2) of the Food Stamp Act of 1977 is amended by adding at the end the following new subparagraph:

"(F) The Secretary may, pursuant to regulations promulgated after consultation with the Secretary of Health and Human Services, alter or suspend the application of this section in any case in which the Secretary determines that such application would be inequitable under the circumstances."

(4) FOOD STAMPS EXEMPTION FOR BLIND OR DISABLED ALIENS.—Section 5(i)(2)(E) of the Food Stamp Act of 1977 (as previously amended by subsection (a)(2)(C)) is further amended by adding at the end the following:

"(iii) The provisions of this subsection shall not apply with respect to any individual for any month for which such individual receives a benefit under the program of supplemental security income authorized by title XVI of the Social Security Act by reason of blindness (as determined under section 1614(a)(2) of such Act) or disability (as determined under section 1614(a)(3) of such Act), provided that such blindness or disability commenced after the date of such individual's admission into the United States for permanent residence.".

(5) INCREASE IN FOOD STAMP RESOURCE LIMITATION.—Section 5(i)(2)(B)(ii) of the Food Stamp Act of 1977 is amended by striking "$1,500" and inserting "$2,000".

(b) DISQUALIFICATION OF CERTAIN SPONSORED ALIENS AFTER THE 60th Month After Entry into the United States Under the Supplemental Security Income, Aid to Families with Dependent Children, and Food Stamp Programs.—

(1) In general.

(A) SSI.—Section 1611(e) of the Social Security Act is amended by inserting between paragraphs (3) and (5) a new paragraph (4) as follows:

"(4)(A) No individual (other than an individual described in section 1621(f)(1)) who is an alien shall be an eligible individual or eligible spouse for purposes of this title with respect to any month beginning after the 60th month after such individual's entry into the United States if the adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) of any person who (as a sponsor of such individual's entry into the United States) executed an affidavit of support with respect to such individual plus the adjusted gross income of such person's spouse and dependent children (if any) for the most recently completed year for which—

"(i)(I) a return has been filed in connection with the taxes imposed by subtitle A of the Internal Revenue Code of 1986 by or on behalf of such person (and such person's spouse and dependent children, if any), or (II) no such return is required by such Code to be so filed, and

"(ii) the Secretary has published the U.S. median income for all families pursuant to subparagraph (B)(i)(I), exceeds the applicable measure of U.S. median income for all families (determined in accordance with subparagraph (B)(i)(II)) for such year.

"(B)(i) The Secretary shall publish twice yearly in the Federal Register a notice—

"(I) setting out the U.S. median income for all families for not fewer than five of the years immediately preceding the year in which such notice is published, and

"(II) identifying the months for which each such figure shall be deemed to be the applicable measure for the purpose of making the determination required by subparagraph (A).

"(ii) The U.S. median income for all families for any year published by the Secretary pursuant to clause (i) shall be the amount reported for such year by the Census Bureau pursuant to its Current Population Survey, except that if such amount has not been so reported for such year at the time such notice is published, then the measure of the U.S. median income for all families for such year shall be derived by increasing the amount reported by the Census Bureau for the immediately preceding year by a percentage equal to the percentage (rounded to the nearest cne-tenth of one percent), if any, by which the Consumer Price Index (as prepared by the Department of Labor) for such year has increased over such immediately preceding year.".

(B) AFDC.—Section 402(a) of the Social Security Act is amended by—

(i) striking "and" at the end of paragraph (44);

(ii) striking the period at the end of paragraph (45) and inserting "; and"; and

(iii) adding at the end a new paragraph as follows:

"(46) provide that an individual who is an alien may not be considered a dependent child, a caretaker relative whose needs are to be taken into account in making the determination under paragraph (7), or any other person whose needs should be taken into account in making such a determination with respect to the child or relative, with respect to any month beginning after the 60th month after such individual's entry into the United States if the adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) of any person who (as a sponsor of such individual's entry into the United States) executed an affidavit of support with respect to such individual plus the adjusted gross income of such person's spouse and dependent children (if any) for the most recently completed year for which—

"(A)(i) a return has been filed in connection with the taxes imposed by subtitle A of the Internal Revenue Code of 1986 by or on behalf of such person (and such person's spouse and dependent children, if any), or (ii) no such return is required by such Code to be so filed, and

"(B) the U.S. median income for all families has been published, exceeds the applicable measure of U.S. median income for all families for such year. For purposes of the preceding sentence, the requirement for the publication of the U.S. median income for all families for any year shall be satisfied by the publication of such data for such year pursuant to section 1611(e)(4)(B)(i)(I), and the 'applicable measure of U.S. median income for all families' for any year shall be the measure applicable for such year pursuant to section 1611(e)(4)(B)(i)(II).".

(C) FOOD STAMPS.—Section 6 of the Food Stamp Act of 1977 is amended by adding at the end a new subsection as follows:

"(i) No alien who is a member of a household otherwise eligible to participate in the food stamp program under this section shall be eligible to participate in such program as a member of that or any other household with respect to any month beginning after the 60th month after such alien's entry into the United States if the adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) of any person who (as a sponsor of such alien's entry into the United States) executed an affidavit of support with respect to such alien plus the adjusted gross income of such person's spouse and dependent children (if any) for the most recently completed year for which—

"(1)(A) a return has been filed in connection with the taxes imposed by subtitle A of the Internal Revenue Code of 1986 by or on behalf of such person (and such person's spouse and dependent children, if any), or (B) no such return is required by such Code to be so filed, and

"(2) the U.S. median income for all families has been published,

exceeds the applicable measure of U.S. median income for all families for such year. For purposes of the proceeding sentence, the requirement for the publication of the U.S. median income for all families for any year shall be satisfied by the publication of such data for such year pursuant to section 1611(e)(4)(B)(i)(I) of the Social Security Act, and the 'applicable measure of U.S. median income for all families' for any year shall be the measure applicable for such year pursuant to section 1611(e)(4)(B)(i)(II) of such Act.".

(2) CONFORMING AMENDMENTS.—

(A) COOPERATION REQUIREMENT.—

(ii) SSI.—Section 1621(d)(1) of the Social Security Act is amended in the first sentence by—

(I) striking "during the period of 5 years after entry into the United States,"; and

(II) inserting "or section 1611(e)(4)" after "this section".

(ii) AFDC.—The second sentence of section 415(c)(1) of the Social Security Act (as previously amended by subsection (a)(1)(B) of this section) is further amended by—

(I) striking "during the period of 5 years after his or her entry into the United States"; and

(II) inserting "or section 402(a)(46)" after "this section".

(iii) FOOD STAMPS.—The first sentence of section 5(i)(2)(C)(i) of the Food Stamp Act of 1977 (as previously amended by subsection (a)(1)(C) of this section) is further amended by—

(I) striking "during the period of 5 years after entry into the United States,"; and

(II) inserting "or section 6(i)" after "this section".

(B) LIABILITY FOR OVERPAYMENTS.—

(i) SSI.—Section 1621(e) of the Social Security Act is amended by—

(I) striking "during the period of 5 years after such alien's entry into the United States,";

(II) inserting "or section 1611(e)(4)" after "this section"; and

(III) adding at the end the following sentence: "If an individual who is an alien subject to this subsection is naturalized as a citizen of the United States, such naturalization shall have no effect upon the continued application of this subsection to such individual or to such individual's sponsor.".

(ii) AFDC.—Section 415(d) of the Social Security Act (as previously amended by subsection (a)(1)(B)) is further amended by—

(I) striking "during the period of 5 years after such alien's entry into the United States,";

(II) inserting "or section 402(a)(46)" after "this section"; and

(III) adding at the end the following sentence: "If an individual who is an alien subject to this subsection is naturalized as a citizen of the United States, such naturalization shall have no effect upon the continued application of this subsection to such individual or to such individual's sponsor.".

"(iii) FOOD STAMPS.—Section 5(i)(2)(D) of the Food Stamp Act of 1977 (as previously amended by subsection (a)(1)(C)) is further amended by—

(I) striking "during the period of 5 years after such alien's entry into the United States,";

(II) inserting "or section 6(i)" after "this section"; and

(III) adding at the end the following sentence: "If an individual who is an alien subject to this subparagraph is naturalized as a citizen of the United States, such naturalization shall have no effect upon the continued application of this subparagraph to such individual or to such individual's sponsor.".

"(3) DISCLOSURE OF TAX RETURN INFORMATION.—Section 6103(l)(7)(B) of the Internal Revenue Code of 1986 is amended by designating the existing matter as clause (i) and adding at the end the following:

"(ii) The Secretary shall disclose, upon request, return information with respect to adjusted gross income (as defined in section 62) from returns filed by, or with respect to, any individual (and such individual's spouse and dependent children, if any) who (as a sponsor of an alien's entry into the United States) executed an affidavit of support with respect to such alien and whose income is considered in connection with determining such alien's eligibility for a program described in clause (i), (iii), or (vi) of subparagraph (D) to any Federal, State, or local agency administering such program, but only for the purpose of, and to the extent necessary, in determining the eligibility of such alien for benefits under such program.

"(iii) Information regarding any determination made pursuant to section 402(a)(46) of 415 of the Social Security Act (relating to the aid to families with dependent children program), section 1611(e)(4) or 1621 of such Act (relating to the supplemental security income program), or section 5(i) or 6(i) of the Food Stamp Act of 1977 (relating to the program of assistance under that Act) in connection with determining an alien's eligibility for benefits under any such program shall not be considered to be return information subject to the limitations on disclosure or redisclosure imposed by this section.".

(c) STATE AND LOCAL PROGRAMS.—A State or political subdivision therein may provide that an alien is not eligible for any program of assistance based on need that is furnished by such State or political subdivision for any month if such alien has been determined to be ineligible for such month for benefits under——

(A) the program of aid to families with dependent children authorized by part A of title IV of the Social Security Act, as a result of the application of section 402(a)(46) or 415 of such Act;

(B) the program of supplemental security income authorized by title XVI of the Social Security Act, as a result of the application of section 1611(e)(4) or 1621 of such Act; or

(C) the Food Stamp Act of 1977, as a result of the application of section 5(i) or 6(i) of such Act.

(d) EFFECTIVE DATE.—

(1) Except as otherwise provided in paragraph (2), the amendments made by subsections (a) and (b) are effective with respect to benefits under the program of aid to families with dependent children authorized by part A of title IV of the Social Security Act, the program of supplemental security income authorized by title XVI of the Social Security Act, and the program authorized by the Food Stamp Act of 1977, payable for months beginning after September 30, 1994, on the basis of—

(A) an application filed after such date, or

(B) an application filed on or before such date by or on behalf of an individual subject to the provisions of section 1621(a) or section 415(a) of the Social Security Act or section 5(i)(1) of the Food Stamp Act of 1977 (as the case may be) on such State.

(2) The amendments made by clauses (i)(III), (ii)(III), and (iii)(III) of subsection (b)(2)(B) are effective upon the date of enactment of this Act.

(3) Subsection (c) is effective on October 1, 1994.

SEC. 904. FAMILY DAY CARE HOMES.

(a) Section 17(c) of the National School Lunch Act (42 U.S.C. 1766(c)) is amended—

(1) in paragraph (1), by inserting "except as provided in paragraphs (4) and (5) of this subsection," after "For purposes of this section,";

(2) in paragraph (2), by inserting "except as provided in paragraphs (4) and (5) of this subsection," after "For purposes of this section,";

(3) in paragraph (3), by inserting "except as provided in paragraphs (4) and (5) of this subsection," after "For purposes of this section,";

(4) by redesignating paragraph (4) as paragraph (6); and

(5) by inserting after paragraph (3) the following new paragraphs:

"(4) For purposes of this section, the level one reimbursement factor for family or group day care homes shall be $1.5050 for lunches or suppers, $.8275 for breakfasts, and $.4475 for supplements. The reimbursement factor under this paragraph shall be adjusted on July 1, 1996, to reflect changes in the Consumer Price Index for food away from home for the most recent 24-month period for which data are available, and on July 1 of each year, starting July 1, 1997, to reflect changes in the Consumer Price Index for food away from home for the most recent 12-month period for which data are available. The reimbursement factor under this paragraph shall be rounded to the nearest one-fourth cent.

"(5) For purposes of this section, the level two reimbursement factor for family or group day care homes shall be $1.2675 for lunches or suppers, $.5375 for breakfasts, and $.25 for supplements. The reimbursement factor under this paragraph shall be adjusted on July 1, 1996, to reflect changes in the Consumer Price Index for food away from home for the most recent 24-month period for which date are available, and on July 1 of each year, starting July 1, 1997, to reflect changes in the Consumer Price Index for food away from home for the most recent 12-month period for which data are available. The reimbursement factor under this paragraph shall be rounded to the nearest one-fourth cent.".

(b) Section 17(f)(3) of the National School Lunch Act (42 U.S.C. 1766(f)(3)) is amended—

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

"(D) The Secretary shall make payments, totalling not more than $2,000,000 in fiscal year 1995 and $5,000,000 in fiscal year 1996, to provide grants to States: for the purpose of providing assistance, including grants to family or group day care home sponsoring organizations and other appropriate organizations; for securing and providing training, materials, automated data processing assistance, and other assistance for the staff of such sponsoring organizations; and for providing training and other assistance to family or group day care homes in order to assist in the implementation of the requirements contained in this subsection. Of the amount of funds made available to each State under this subparagraph an amount not to exceed 30 percent may be retained by the State to carry out the purposes of this subparagraph;";

(2) In subparagraph (A), by deleting ", except that reimbursement shall not be provided" and all that follows through "nearest one fourth cent." and inserting in lieu thereof "as set forth in subparagraphs (B) and (C).";

(3) by redesignating subparagraphs (B), (C) and (D) (as added by paragraph (1)) as subparagraphs (D), (E), and (L) respectively;

(4) by inserting subparagraph (A) the following new subparagraphs:

"(B) Sponsoring organizations of family or group day care homes located in low-income areas shall be reimbursed for meals or supplements served to children in those homes at the level one reimbursement rates established in subsection (c)(4) of this section.

"(C) Sponsoring organizations of family or group day care homes, except family or group day care homes covered under subparagraph (B) of this subsection, shall be reimbursed for meals or supplements served to children in those homes, at the election of the family or group day care home, either—

"(i) at the level two reimbursement rates established in subsection (c)(5) of this section; or

"(ii)(I) for meals and supplements served to children from households that meet the income eligibility guidelines for free or reduced price meals and supplements set forth in section 9(b) of this Act, at the level one reimbursement rates established in subsection (c)(4) of this section; and

"(II) for meals and supplements served to children from families who do not meet the requirements of paragraph (C)(ii)(I) of this subsection, at the level two reimbursement rates established in subsection (c)(5); or

(iii) for meals and supplements served to children in family or group day care homes in which the family or group day care home provider meets the income eligibility guidelines for free or reduced price meals and supplements set forth in section 9(b) of this Act, at the level one reimbursement rates established in section (c)(4) of this section.";

(5) by adding at the end of subparagraph (D) (as redesignated by paragraph (3)) the following: "In addition, family or group day care home sponsoring organizations shall receive for their administrative expenses an additional $10 per month for each home located in a low-income area."; and

(6) by adding after subparagraph (E) (as redesignated by paragraph (3)) the following new subparagraphs:

"(F) Notwithstanding subparagraph (C), reimbursement shall not be provided for meals or supplements served to the children of a person acting as a family or group day care home provider unless such children meet the income eligibility guidelines for free or reduced price meals under section 9(b) of this Act. Where so qualifying, the family or group day care home sponsoring organization shall be reimbursed for those meals and supplements at the level one rates established in subsection (c)(4).

"(G) For family or group day care home providers who elect to use the procedures under paragraph (3)(C)(ii) of this subsection, the Secretary shall implement streamlined and simplified counting and claiming procedures, provided that such procedures do not compromise program accountability.

"(H) Sponsoring organizations of family or group day care homes (other than those located in low-income areas) may receive the level one reimbursement rates for meals and supplements established in subsection (c)(4)

of this section for those children with a parent participating in the programs established under part F or G of title IV of the Social Security Act, the at-risk child care program under title IV of such Act, or a Federal or a State child care program with an income eligibility limit that does not exceed the income eligibility guidelines for free or reduced price meals and supplements set forth in section 9(b) of this Act.

"(I) For purposes of this section, 'low-income areas' is defined to mean "areas in which poor economic conditions exist" as defined in Section 13(a)(1)(C) of this Act.

"(J) For purposes of this section, determinations made by the State agency which establish that a family or a group day care home is located in a 'low income area' shall be in effect for 3 years, unless the State agency determines that the area in which the home is located is no longer a 'low income area'.

"(K) The Secretary shall make payments, totalling not more than $5,000,000 in each of fiscal years 1997, 1998, 1999, and 2000 to provide grants to States for the purpose of providing assistance, including grants to family or group day care home sponsoring organizations, to assist family or group day care homes in low-income areas to become licensed or approved for the program under this section. Of the amount of funds available to each State under this subparagraph, an amount not to exceed 30 percent may be retained by the State to carry out the purposes of this subparagraph. Any payments received under this subparagraph shall be in addition to payments which States receive under subsection (b) of this section.".

(c) Effective Dates.—

(1) Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall take effect on July 1, 1996.

(2) The amendment made by subsection (b)(1) shall take effect on the date of enactment of this Act.

SEC. 905. STATE RETENTION OF AMOUNTS RECOVERED.

Section 16(a) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)) is amended by striking "1995" both places it appears in the proviso of the first sentence and inserting in both places in lieu thereof "2004".

SEC. 906. COMMODITY PROGRAM INCOME INELIGIBILITY.

Notwithstanding any other provision of law, a person with annual off-farm adjusted gross income in excess of $100,000, as determined by the Secretary of Agriculture, shall not be eligible to receive from the Commodity Credit Corporation income support and price support through loans, purchases, payments, and other operations. The Secretary of Agriculture shall issue regulations defining the term "person" which shall conform, to the extent practicable, to the regulations issued in accordance with section 1001 of the Food Security Act of 1985, as amended.

SEC. 907. AMENDMENTS RELATED TO SUPERFUND TAX EXTENSION.

(a) EXTENSION OF TERMINATION DATE.—Paragraph (1) of section 59A(e) of the Internal Revenue Code of 1986 (26 U.S.C. 59A(e)(1)) is amended by striking "January 1, 1996" and inserting "February 1, 1998".

(b) ADJUSTMENTS TO AMOUNTS COLLECTED.—Paragraph (3) of section 4611(e) of the Internal Revenue Code of 1986 (26 U.S.C. 4611(e)(3)) is amended—

(1) by striking "December 31, 1995" and inserting "September 30, 1998";

(2) by striking "$11,970,000,000" each time it appears and inserting "$15,500,000,000"; and

(3) by striking "January 1, 1996" and inserting "October 1, 1998".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to amounts collected and amounts credited after the date of the enactment of this Act.

SEC. 908. FEDERAL RAILROAD ADMINISTRATION USER FEES.

Section 216 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 447) is amended—

(1) by striking subsection (a)(3) and inserting the following:

"(3) Fees established under this section shall be assessed to railroads subject to this chapter and shall cover all costs incurred by the Federal Railroad Administration in administering this chapter, and those laws transferred to the jurisdiction of the Secretary of Transportation by subsection (e)(1), (2), and (6)(A) of section 1655 of Title 49, other than activities described in section 431(a)(2) of this title.";

(2) by inserting before the period in subsection (c) ", and those laws transferred to the jurisdiction of the Secretary of Transportation by subsection (e)(1), (2), and (6)(A) of section 1655 of Title 49"; and

(3) by striking subsections (e) and (f).

SEC. 909. SPECIAL EARNED INCOME TAX CREDIT RULES FOR MILITARY PERSONNEL.

(a) MODIFIED RESIDENCY REQUIREMENT.—Subparagraph (E) of section 32(c)(3) (defining qualifying child) of the Internal Revenue Code of 1986 is amended by adding at the end the following sentence: "The preceding sentence does not apply during any period during which the taxpayer is stationed outside the United States while serving on extended active duty (as defined in section 1034(h)(3)) with Armed Forces of the United States."

(b) REPORTING MILITARY EARNED INCOME.—Subsection (a) of section 6051 (relating to receipts for employees) of the Internal Revenue Code of 1986 is amended by striking "and" at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting in lieu thereof ", and", and by inserting after paragraph (9) the following paragraph:

"(10) in the case of an employee who is a member of the Armed Forces of the United States, the total amount of earned income (as defined in section 32(c)(2)).".

(c) ADVANCE PAYMENT OF EARNED INCOME TAX CREDIT.—Paragraph (1) of section 3507(c) (defining earned income advance amount) of the Internal Revenue Code of 1986 is amended by adding at the end the following sentence: "For purposes of subparagraph (A) in the case of an employee who is a member of the Armed Forces of the United States, the employee's earned income (as defined in section 32(c)(2)) shall be taken into account rather than the employee's wages.".

(d) EFFECTIVE DATES.—The amendments made by this section shall apply to taxable years beginning and remuneration paid after December 31, 1994.

SEC. 910. NONRESIDENT ALIENS NOT ELIGIBLE FOR EARNED INCOME TAX CREDIT.

(a) IN GENERAL.—Section 32(c)(1) (defining eligible individual) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

"(E) EXCEPTION FOR NONRESIDENT ALIENS.—The term 'eligible individual' does not include a nonresident alien unless an election under section 6013(g) (relating to treating a nonresident alien individual as a resident of the United States) or section 6013(h) (relating to the year in which a nonresident alien becomes a resident of the United States) is in effect for the taxable year with respect to the nonresident alien.

EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 911. EXTENSION OF CERTAIN CUSTOMS FEES.

Subsection (j)(3) of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, (19 U.S.C. 58c), is amended to read as follows:

"(3) Fees may not be charged under subsection (a) of this section after September 30, 2004.".

TITLE X—EFFECTIVE DATES

SEC. 1001. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided and subject to subsection (b), the amendments and repeals made by this Act, other than title VI, shall become effective with respect to periods beginning on or after October 1, 1995.

(b) The Secretary of Health and Human Services may, upon the request of a State, delay the effective date prescribed by subsection (a) with respect to such State upon a showing of circumstances beyond the State's control, but such extension may not extend beyond October 1, 1996.

(c) Notwithstanding any other provision of law, no State shall be found to have failed to comply with any requirement imposed on such State's programs by or pursuant to the amendments made by titles I and II of this Act by reason of its failure to have such program (or requirements) in effect Statewide if such program is in effect Statewide not later than 2 years after the effective date specified in subsection (a), or 2 years after such later date as is approved by the Secretary pursuant to subsection (b).

WORK AND RESPONSIBILITY ACT OF 1994—FACT SHEET

The President today sent to the Congress the "Work and Responsibility Act of 1994". This legislation represents a fundamental reform of the Nation's welfare system, based on the values of work and responsibility. When this bill is enacted, welfare will be a transitional system leading to work. The combination of expanded education and training, work opportunities and requirements, improved child support enforcement, and streamlined government assistance will make the lives of millions of low-income families and their children demonstrably better.

This legislation will:

Replace the Aid to Families with Dependent Children (AFDC) program with a transitional assistance program followed by work. Job training, support, and child care will be provided to help people move from dependence to independence;

Make work pay for low-income families. In addition to the expanded Earned Income Tax Credit and better coverage under health care reform, child care programs for families on public assistance and poor working families will be improved;

Promote parental responsibility through a national effort to prevent teen pregnancies, incentives to encourage responsible parenting, and improvements in child support enforcement; and

Improve government assistance by increasing conformity between the AFDC and Food Stamp programs, creating new fraud control measures, linking funding incentives and penalties to the performance of States and caseworkers in service provision, job placement, and child support collection.

The cost of the proposal to the Federal Government is estimated at $9.3 billion over five years and is fully offset, primarily through reductions in entitlements and without new tax increases.

BACKGROUND

In 1993, a record number of Americans received AFDC benefits—14.1 million persons

each month. Two-thirds of AFDC recipients are children. Although State and Federal expenditures for assistance payments set an all-time high of $22.6 billion in 1993, real AFDC benefit levels (which average $377 per month for a family of three) have actually declined by 42 percent in the last two decades.

The current welfare system does little to help people find work and does not encourage those who go to work. Instead of strengthening families and instilling personal responsibility, the system imposes stricter rules on two-parent families and lets too many noncustodial parents who owe child support off the hook. Instead of promoting self-sufficiency, the culture of the welfare offices seems to create an expectation of dependence. Taxpayers, program administrators, and recipients alike are frustrated with the current system and seek change.

LEGISLATIVE PROPOSAL

Welfare reform must accomplish multiple and varied objectives. Through its focus on work, responsibility, family, and opportunity, the plan will change the values, expectations, and incentives within the current welfare system. Ultimately, the plan is about improving the lives of children and families by rewarding work and responsibility to make families stronger and children and society better off.

TRANSITIONAL ASSISTANCE FOLLOWED BY WORK

This reform proposal calls for fundamentally replacing the AFDC program with a transitional assistance program to be followed by work. The phase-in of the new requirements will begin with all recipients (including new applicants) born after December 31, 1971. All persons of the same age and circumstances will then face the same rules, regardless of when they entered the system. The new program includes four key elements: a simple compact; training, education, and placement assistance to move people from welfare to work; a two-year time limit; and work requirements.

Everyone who receives cash support will be expected to do something to help themselves and their community. Recipients will sign a personal responsibility agreement indicating what is expected of them and of the Government in order to prepare them for self-sustaining employment. Persons who are not yet in a position to work or to train (for example, because of disability or the need to care for an infant or disabled child) will be deferred until they are ready for the time-limited Job Opportunities and Basic Skills (JOBS) program.

The core of the transitional support program will be an expanded and improved JOBS to provide training, education, and job placement services to AFDC recipients focused on moving people into work. Every aspect of the new JOBS program will be designed to help recipients find and keep jobs. The enhanced program will include a personal responsibility agreement and an employability plan designed to move persons from welfare to work as rapidly as possible. For most applicants, supervised job search will be required from the date the application for AFDC is approved. JOBS participants will be required to accept a job if offered. The new effort, rather than creating an employment training system for welfare recipients alone, will seek close coordination with Job Training Partnership Act (JTPA) programs and other mainstream training programs and educational resources.

Young recipients will be limited to two years of cash assistance, after which they will be expected to work. While two years will be the maximum period for the receipt of cash aid, the goal will be to help persons find jobs long before the end of the two-year period. Mothers with infants, individuals with disabilities that limit work, and those caring for a disabled child will be deferred from these requirements and will not be subject to the time limit while such conditions exist. In a very limited number of cases, and at the discretion of States, extensions of the time limit will be granted for completion of an education or training program or in unusual circumstances.

Those persons who are not able to find employment before reaching the two-year time limit will be required to take a job in the WORK program. WORK jobs will be paid employment, rather than "workfare" and will include subsidized private sector jobs, as well as positions with local not-for-profit organizations and in the public sector. The positions are intended to be short-term, last-resort jobs, designed neither to displace existing workers, nor to serve as substitutes for unsubsidized employment. Provisions will be put in place to discourage lengthy stays in the WORK program. Among these will be limits on the duration of any one WORK assignment, frequent periods of job search, denial of the Earned Income Tax Credit (EITC) to persons in WORK assignments, and a comprehensive reassessment after a second WORK assignment. People will be required to make a good-faith effort to find unsubsidized work, and anyone who turns down a job offer will be removed from the welfare rolls for six months. The primary emphasis of the WORK program will be on securing unsubsidized employment. States will be given considerable flexibility in the operation of the WORK program in order to achieve this goal.

MAKING WORK PAY/CHILD CARE

Although they are not part of this legislative proposal, the EITC and health care reform are two of the three major components of making work pay; the final component is affordable, accessible child care. This proposal will continue to guarantee child care assistance to families on public assistance while they are working or in education or training and to those who are in transition after leaving welfare, and it will extend the guarantee to the WORK program. Funding for child care for low-income working families will be significantly increased. At-Risk Child Care Program funds will be set aside to address quality improvements and supply issues. Rules across all child care programs will be coordinated to create seamless coverage for persons who leave welfare for work.

In addition, the proposal includes provisions to simplify the rules regarding the amount of earnings and child support that can be disregarded before calculating the AFDC benefit. Finally, demonstrations will be permitted to provide advance payments of the EITC through State agencies.

PREVENTING TEEN PREGNANCY AND PROMOTING PARENTAL RESPONSIBILITY

The bill includes provisions aimed at reducing teen pregnancy and out-of-wedlock births, including a national campaign against teen pregnancy, a national clearinghouse on teen pregnancy prevention, teen pregnancy prevention grants, and comprehensive service demonstrations of various prevention approaches. The bill also provides incentives for responsible behavior that would require minor parents to live at home, require school-age parents to stay in school, allow States to limit additional benefits for additional children conceived while on AFDC, and give States options to use a variety of incentives to reward responsible behavior.

The bill also includes a number of proposals to address the shortcomings in the current child support enforcement system. The scope and effectiveness of the current State paternity establishment process will be expanded by provisions including streamlining the paternity establishment process, requiring cooperation from mothers as a condition of receiving AFDC benefits, conducting paternity outreach aimed at voluntary paternity establishment, and giving States the administrative authority to establish the child support award in appropriate cases, based on State guidelines.

In order to ensure fair award levels, this proposal will: (1) require universal, periodic, administrative updating of awards; (2) reorder the distribution of child support payments to enable families to more easily move from welfare to work; and (3) establish a National Commission on Child Support Guidelines. This proposal also includes provisions for central registries and other tools to improve both intra- and interstate enforcement. States will be required to use the threat of revoking professional, occupational, and drivers' licenses to make delinquent parents pay child support. The proposal will give States additional enforcement tools such as universal wage withholding to increase collections. States will also have the option of developing JOBS and/or WORK programs for noncustodial parents who have children receiving AFDC or who have child support arrearages owed to the State from prior periods of AFDC receipt by their children.

The proposal also calls for a limited number of time-limited Child Support Enforcement and Assurance demonstrations which will attempt to link expanded efforts at child support collections to some level of guarantee that a child will receive a child support payment on a consistent basis. Finally, this proposal will focus more attention on noncustodial parents by establishing demonstration grants for paternity and parenting programs and grants for success and visitation programs.

IMPROVING GOVERNMENT ASSISTANCE

This bill includes provisions to increase coordination and simplification in the operation of the AFDC and Food Stamp programs, and improve the incentives in income support programs, including allowing States to eliminate special requirements for two-parent families, allowing families to own a reliable automobile and accumulate savings and a number of other coordination and simplification proposals to encourage work and family formation. The proposal will also increase the current cap on funding for certain assistance programs operating in the territories, create self-employment/micro-enterprise demonstrations, and limit the definition of essential persons.

Measures to enhance accountability and efficiency and reduce fraud include a nationwide public assistance clearinghouse and state tracking systems to follow people in the JOBS and WORK programs. Finally, the proposal seeks to transform the culture of the welfare system into a performance-based system through the adoption of new performance measures and service delivery standards, an improved quality assurance system, and funding for research, demonstrations, evaluation and technical assistance.

FINANCING

The cost of the proposal to the Federal Government is $9.3 billion and is fully offset.

The financing comes from three areas: (1) reductions in entitlement programs; (2) extensions of various savings provisions set to expire in the future; and (3) better EITC targeting and compliance measures. Estimated Federal savings for all proposals are roughly $9.3 billion over five years.

Entitlement Reforms. The current Emergency Assistance (EA) program would be modified by establishing a Federal cap for each State's EA expenditures (saves $1.6 billion over five years). Sponsorship and benefit eligibility rules for non-citizens under Supplemental Security Income (SSI), AFDC, and Food Stamps would be tightened; the deeming of sponsors' income in the SSI program would be permanently extended to five years; the same deeming rules would be extended to AFDC and Food Stamps; and eligibility would be limited to aliens with sponsors below median income (saves $2.8 billion over five years). In addition, more consistent eligibility criteria under SSI, AFDC, Food Stamps and Medicaid would be established for all categories of immigrants who are *not* legal permanent residents (saves $900 million over five years). Once immigrants become citizens, they will be eligible for benefits on the same basis as are other Americans.

Congress is in the process of enacting strengthened sanctions and new time limits for individuals receiving SSI and Social Security Disability Insurance (SSDI) benefits who have substance abuse problems that are material to disability finding and these savings would be referenced for welfare reform (saves an estimated $800 million over five years). Family day care food program funding to low-income children would be better targeted (saves $500 million over five years). Producers receiving $100,000 or more in off-farm adjusted gross income would be made ineligible for Commodity Credit Corporation (CCC) crop subsidies (saves $500 million over five years).

Extended Expiring Provisions. The 1990 Farm Bill provision which changed the percentage of recovered Food Stamp overissuances retainable by State agencies for fiscal years 1991-95 would be extended (saves $100 million over five years). Fees for passenger processing and other custom services would be extended (increases receipts by $1 billion in 2004). Railroad safety inspection fees would be extended permanently (increases receipts by $200 million over five years). The Corporate Environmental Income (CEI) tax used to finance Superfund would be extended through fiscal year 1998 (increases receipts by $1.6 billion over five years). Using these extensions to help finance welfare reform will in no way threaten the funding of the programs involved.

EITC Targeting and Compliance Measures. The proposal would deny the EITC to nonresident aliens completely, affecting 50,000 taxpayers, mainly visiting foreign students and professors (saves $100 million over five years). The proposal would extend the EITC to active military families living overseas, and the Department of Defense would be required to report the nontaxable earned income paid to military personnel (both overseas and States-side) on Form W-2 (saves $200 million over five years).

WORK AND RESPONSIBILITY ACT OF 1994—LEGISLATIVE SPECIFICATIONS

INTRODUCTION

It is time to end welfare as we know it and replace it with a system that is based on work and responsibility—a system that will help people help themselves. This legislation reinforces the fundamental values of work, responsibility, family, and community. It rewards work over welfare. It signals that people should not have children until they are ready to support them, and that parents—both parents—who bring children into the world must take responsibility for supporting them. It gives people access to the skills they need and expects work in return. Most important, it will give people back the dignity that comes from work and independence. The cost of the proposal to the Federal Government is estimated at $9.3 billion over five years and is fully offset, primarily through reductions in entitlements and without new tax increases.

The "Work and Responsibility Act of 1994" will replace welfare with work. Under this legislation, welfare will be about a paycheck, not a welfare check. Our approach is based on a simple compact designed to reinforce and reward work. Each recipient will be required to develop a personal employability plan designed to move that individual into the workforce as quickly as possible. Support, job training, and child care will be provided to help people move from dependence to independence. Time limits will ensure that anyone who can work, must work—in the private sector if possible, in a temporary subsidized job if necessary.

This legislation includes several provisions aimed at creating a new culture of mutual responsibility. It includes provisions to promote parental responsibility and ensure that both parents contribute to their children's well-being. This legislation establishes the toughest child support enforcement program ever. It recognizes that preventing teen pregnancy and out-of-wedlock births is a critical part of welfare reform. To prevent welfare dependency, teenagers must get the message that staying in school, postponing pregnancy, and preparing to work are the right things to do. The legislation also includes: incentives directly tied to the performance of the welfare office; extensive efforts to detect and prevent welfare fraud; sanctions to prevent gaming of the welfare system; and a broad array of incentives that States can use to encourage responsible behavior.

The "Work and Responsibility Act of 1994" proposes dramatic changes in our welfare system, changes so bold that they cannot be accomplished overnight. We phase in these changes by focusing on young people, to send a clear message to the next generation that we are ending welfare as we know it.

JOBS, TIME LIMITS AND WORK [TITLE I, TITLE II]

Definition: A "subsidized job" is defined as a position subsidized under either the JOBS or the WORK program.

JOBS and Time Limits

1. Effective Date and Definition of Phased-in Group

Specifications

(a) The effective date for the legislation would be October 1, 1995. States could petition to delay implementation for up to one year after the effective date (i.e., until, at the latest, October 1, 1996) for circumstances beyond the control of the State IV-A agency (e.g., no meeting of State legislature that year). States would be required to have the program implemented statewide (in each political subdivision of the State where it is feasible to do so) within two years of initial implementation.

(b) The phased-in group would be defined as custodial parents, including minor custodial parents, who were born after 1971 (in 1972 or later).

(c) States would have the option to define the phased-in group more broadly (e.g., custodial parents born after 1969; born after 1971 and all first-time applicants), provided the phased-in group included at least the population described in (b).

(d) States would be required to apply the new rules, including the time limit, to all applicants in the phased-in group as of the effective date of the legislation. Recipients (parents) in the phased-in group who were on AFDC prior to the effective date would be subject to the new rules, including the time limit, as of their first redetermination following the effective date.

2. Program Intake

Current law

The Family Support Act requires a State agency to make an initial assessment of JOBS participants with respect to employability, skills, prior work experience and educational, child care and supportive service needs.

Vision

At the point of intake, applicants would learn of their specific responsibilities and expectations regarding the JOBS program, the two-year time limit and its relationship to JOBS participation and AFDC benefits not conditioned upon work. Each applicant would now be required to enter into a personal responsibility agreement with the State agency broadly outlining the obligations of each party. While the personal responsibility agreement would serve as a general accord, the employability plan would be focused on the specific employment-related needs of each applicant.

Rationale

States must change the culture of the welfare system by changing the expectations of both the recipient and the State agency. This calls for modifying the mission of the welfare system beginning at the point of intake to stress employment and access to needed services rather than eligibility and benefit determination. The mutual obligations of the State agency and the participant must be spelled out and enforced. JOBS programs must continue to link clients to services in the community.

Specifications

(a) All parents and other caretaker relatives would be required as part of the application/redetermination process to sign a Personal Responsibility Agreement with the State IV-A agency. The Agreement would state the overall goal of achieving maximum self-sufficiency and would describe the general responsibilities of both the applicant and the State agency (for the applicant, following the employability plan; for the State, making available the services in the plan). Current recipients (parents), if they had not previously signed the Agreement, would be required to sign the Agreement as part of the redetermination process. The Personal Responsibility Agreement for persons in the not-phased-in group would make no reference to the time limit.

(b) The Personal Responsibility Agreement would not be a legal contract.

(c) The State IV-A agency would be required to orient each applicant to the AFDC program by providing information about the AFDC program, which would include (among other items) the nature and applicability of the two-year time limit, the JOBS participation requirement, the services provided under JOBS and the availability of such services to persons not in the phased-in group. Each applicant in the phased-in group would be informed of the number of months of cash assistance/JOBS participation for

which he or she was eligible (e.g., 24 for first-time applicants). The orientation information could be provided as part of the eligibility determination process or in a subsequent one-on-one or group orientation session. States would be required to provide the orientation information prior to or as part of the development of the employability plan. The information would be imparted in the recipient's primary language pursuant to Federal law and regulation. Child care would be available as needed to enable an individual to receive the orientation information (as under 45 CFR 255.2).

(d) The State would have to obtain confirmation in writing from each applicant in the phased-in group that he or she had received and understood the requisite orientation information.

(e) Recipients who were already on assistance as of the effective date of the legislation would be provided with the requisite orientation at the earliest possible date but in no event later than at the development or revision of the employability plan (see below) or as part of the redetermination process, whichever came first.

3. Employability Plan

Current law

On the basis of the assessment described above, the State agency must develop an employability plan for the participant. The State agency may require participants to enter into a formal agreement which specifies the participant's obligations under the program and the activities and services to be provided by the State agency. The employability plan is not considered a contract.

Vision

The employability plan would be designed so as to help individuals secure lasting employment as soon as possible. Employability plans could be for less than 24 months and may include assignment, through JOBS, to work programs such as On-the-Job Training, Work Supplementation and CWEP.

Specifications

(a) The State agency would be required to complete the assessment and employability plan (for new recipients) within 90 days from the earliest date for which payment was made. For recipients on assistance as of the effective date, the employability plan would have to be developed (or revised, if such a plan were already in place) within 90 days of the date the recipient became subject to the time limit (i.e., within 90 days of the redetermination; see above).

(b) The employability plan would be developed jointly by the State agency and the recipient. In designing the employability plan, the agency and the recipient would consider, among other elements, the months of eligibility (for JOBS participation/AFDC benefits not contingent upon work; see Definition of the Time Limit below) remaining for that recipient (if that recipient were subject to time limit).

(c) An employability plan would be required for all JOBS participants, including those not in the phased-in group (e.g., volunteers). Employability plans would also be developed, when appropriate, for persons who were deferred from JOBS participation.

(d) The employability plan for persons required to participate in JOBS would include an expected time frame for achieving self-sufficiency and the activities intended to assist the participant in obtaining employment within that time period. The time frame would, in the case of many JOBS participants, be shorter than 24 months. For persons who were deferred, an employability plan could detail the activities needed to remove the obstacles to JOBS participation (see below).

(e) Amend section 483(b)(1)(A) by adding "literacy" after the word "skills."

(f) The State agency would provide that if the recipient and the State agency staff member or members responsible for developing the employability plan could not reach agreement on the plan, a supervisory level staff member or other State agency employee trained to mediate these disputes would intervene to provide further advocacy, counseling or negotiation support.

(g) To resolve disputes (regarding the employability plan) not settled by the intervention in (f), a State could elect one or more of the following processes:

i. Permit the agency to establish an internal review board to arbitrate disputes. This board would have the final say. The Secretary would establish regulations for such boards.

ii. Permit agencies to employ mediation using trained personnel, rather than arbitration, to resolve the dispute. HHS would be responsible for providing technical assistance to States that wished to use mediation.

iii. Allow the recipient a fair hearing contesting whether the State agency had followed the established process for developing the employability plan. A fair hearing could be the exclusive remedy or could be allowed in addition to the procedure in (i) or (ii).

(h) Persons who refused to sign or otherwise agree to the employability plan after the completion of the process described above would be subject to sanction, curable by agreeing to the plan. In the event of an adverse ruling at a fair hearing concerning the employability plan, the individual would not have the right to a second fair hearing prior to imposition of the sanction for continued refusal to agree to such plan.

4. Deferrals

Current law

States must require non-exempt AFDC recipients to participate in the JOBS program to the extent that resources are available. Exemptions under the current JOBS program are for those recipients who are ill, incapacitated, or of advanced age; needed in the home because of the illness or incapacity of another family member; the caretaker of a child under age 3 (or, at State option, under age 1); employed 30 or more hours per week; a dependent child under age 16 or attending an educational program full time; women in the second and third trimester of pregnancy; and residing in an area where the program is not available. The parent of a child under age 6 (but older than the age for an exemption) who is personally providing care for the child may be required to participate only if participation does not exceed 20 hours per week and necessary child care is guaranteed. For AFDC-UP families, the exemption due to the age of a child may be applied to only one parent, or to neither parent if child care is guaranteed.

Vision

Under the new provisions, a much greater percentage of AFDC recipients would be required to participate in JOBS. Single-parent and two-parent families would be treated similarly under the new JOBS system. Persons not yet ready for participation in JOBS would be deferred, temporarily in many cases, from such participation. The State agency would, when appropriate, assist such individuals in filing for Supplemental Security Income (SSI) or Disability Insurance (DI). Some of the criteria for deferral are based on current regulations concerning exemptions, but in a number of instances the definition is tightened significantly.

Rationale

In order to change the culture of welfare, it is necessary to maximize participation in the JOBS program. It is also critical to ensure that all welfare recipients who are able to participate in JOBS have such services made available to them by the States. The deferral policy does, however, give States the flexibility to consider differences in the ability to work and to participate in education and training activities in determining whether to require an individual to enter the JOBS program.

Specifications

(a) Adult recipient (see Teen Parents below for treatment of minor custodial parents) who were not able to work or participate in education or training activities (e.g., due to care of a disabled child) could be deferred either prior to or after entry into the JOBS program (or after entry into the WORK program; see WORK specifications below). For example, if an individual became seriously ill after entering the JOBS program, he or she would then be deferred.

(b) The State agency would be required to make an initial determination with respect to deferral prior to or as part of the development of the employability plan, since the determination would in turn affect the content of the employability plan. Recipient who was required to participate in JOBS rather than deferred could request a fair hearing focusing on whether the individual meets one of the deferral criteria (see below). The time frame for completion of the employability plan (see above) would be waived in instances of a dispute concerning deferral from JOBS.

(c) Persons who were deferred from JOBS would be expected when possible to engage in activities intended to prepare them for employment and/or the JOBS program. An employability plan for a deferred recipient could detail the steps, such as referral to a vocational rehabilitation program or arranging for an appropriate day care or school setting for a child with a disability, needed to enable the adult to enter the JOBS program and/or find employment.

Recipients not likely to ever participate in the JOBS program (e.g., those of advanced age) would not be expected to engage in activities to prepare for JOBS participation. An employability plan for such a person might include steps intended to, for example, improve the family's health status or housing situation. For individuals who were expected to enter the JOBS program shortly (e.g., mothers of young children), services could be provided to address any outstanding barriers to successful participation in JOBS (e.g., arranging for child care).

(d) States could provide program services to deferred individuals, using JOBS funds, but would not be required to do so. Likewise, States could provide child care or other supportive services to persons who were deferred, but would not be required to do so—there would be no child care guarantee for individuals in the deferred status. Persons who were deferred would not be subject to sanction for failure to participate in activities. In other words, in order to actually require an individual to participate in an activity, a State would have to classify the individual as JOBS-mandatory (except with respect to participation in substance abuse treatment; see Substance Abuse and Deferral from JOBS or WORK below).

(e) Persons who were deferred would not be subject to the time limit, i.e., months in

which a recipient was in deferred status would not count against the two-year limit.

(f) The criteria for deferral from JOBS would be the following:

(1) Is a parent of a child under age one, provided the child was not conceived while the parent was on assistance. A parent of a child conceived while on assistance would be deferred for a twelve-week period following the birth of the child (consistent with the Family and Medical Leave Act).

(Under current law, a parent of a child under age three, under age one at State option, is exempted from JOBS participation, and no distinction is made according to whether or not the parent was on assistance when the child was conceived)

(2) Is ill or incapacitated, when it is certified by a licensed physician, psychologist or mental health professional (from a list of such professionals approved by the State) that the illness or incapacitating condition is serious enough to prevent, at least temporarily, entry into employment or training;

(3) Is 60 years of age or older;

(4) Is needed in the home because another member of the household requires the individual's presence due to illness or incapacity as determined by a licensed physician, psychologist or mental health professional (from a list of such professionals approved by the State), and no other appropriate member of the household is available to provide the needed care;

(5) Is in the third trimester of pregnancy; or

(Under current law and regulations, pregnant women are exempted from JOBS participation for both the second and third trimesters)

(6) Lives in a remote area. An individual would be considered remote if a round trip of more than two hours by reasonably available public or private transportation would be required for a normal work or training day. If the normal round-trip commuting time in the area is more than 2 hours, the round-trip commuting time could not exceed generally accepted standards for the area.

(Same as current regulations, CFR 250.30))

(g) Only one parent in an AFDC–UP family could be deferred under f(1).

(h) Each State would be permitted to defer from JOBS for good cause, as determined by the State, a number of persons up to a fixed percentage of the total number of persons in the phased-in group, which would include adult recipients (parents), minor custodial parents and persons in the WORK program. These good cause deferrals would be in addition to those meeting the deferral criteria defined in (f). Good cause could include substantial barriers to employment—for example, a severe learning disability or serious emotional instability. The percentage cap on such deferrals would be set, in statute, at 5% through FY 99 and 10% thereafter. A State would be able, in the event of extraordinary circumstances, to apply to the Secretary to increase the percentage cap on good cause placements. The Secretary would be required to respond to such request in a timely manner (time frame to be established by regulation).

(i) The Secretary would develop and transmit to Congress, by a specified date, recommendations regarding the level of the cap on good cause deferrals; the Secretary could recommend that the cap be raised, lowered or maintained at ten percent.

(j) The State agency would be required to reevaluate the status of persons in deferred status at such time as the condition is expected to terminate (if the condition is expected to be temporary) but no less frequently than at each semiannual assessment (see Semiannual Assessment below) to determine if the individual should remain in deferred status or should enter (or re-enter) the JOBS or WORK programs.

(k) Recipients who met one (or more) of the deferral criteria would be permitted to volunteer for the JOBS program, subject to available Federal resources (see JOBS Participation below). Such a volunteer JOBS participant would in general be treated as other JOBS participants except that he or she would not be subject to sanction or to the time limit. These volunteers would be distinct from volunteers from the not-phased-in group (see JOBS Participation below), who could at State option be subjected to the time limit.

(l) A State agency would be required to promptly inform a recipient of any change in his or her status with respect to JOBS participation and/or the time limit (e.g., movement from the deferred status into the JOBS program).

(m) The criteria for deferring persons from WORK participation (see WORK below) would be identical to the deferral criteria for persons who had not yet reached the two-year time limit. Persons who were deferred from the WORK program after reaching the time limit would be eligible for AFDC benefits. Such individuals would be treated exactly the same as persons deferred from the JOBS program before reaching the time limit, except that if the condition necessitating deferral ended, they would enter or re-enter the WORK program, rather than the JOBS program. Adult recipients deferred from the WORK program for good cause would count against the cap on the number of deferrals for good cause.

5. Substance Abuse and Deferral from JOBS or WORK

Current law

Current law does not specifically mention substance abuse. Under JOBS regulations, a recipient whose only activity is alcohol or drug treatment would not be counted toward a State's participation rate. Alcohol or drug treatment may, however, be provided as a supportive service using JOBS funds should a State choose to do so. Oregon currently has a waiver that permits the JOBS program to require participation in substance abuse diagnostic, counseling, and treatment programs if they are determined to be necessary for self-sufficiency.

Vision

States would be given flexibility to require recipients they determine to be unable to engage in employment or training because of a substance abuse problem to participate in substance abuse treatment while in the deferred status. Sanctions may be imposed for non-participation in substance abuse treatment provided that both treatment and supportive services, including child care, are made available.

Rationale

States report (on an anecdotal basis) substance abuse as a problem they encounter in their JOBS populations. It is a barrier to self-sufficiency for a number of AFDC recipients who will require treatment if they are to successfully participate in employment or training activities. It is estimated that approximately 4.5% of AFDC recipients have substance abuse problems sufficiently debilitating to preclude immediate participation in employment or training activities. Nearly one-third of these have participated in some form of alcohol or drug treatment in the past year.

Specifications

(a) States may require persons found unable to engage in employment or training due to substance abuse to participate in appropriate substance abuse treatment while in deferred status.

(b) Sanctions, equivalent to JOBS sanctions, may be levied for non-participation in treatment, provided such treatment is available at no cost to the recipient.

(c) Child care and/or other supportive services must be made available to an individual required to participate in substance abuse treatment.

(d) Provisions concerning the semiannual reassessment apply to deferred persons participating in substance abuse treatment as described in this section.

(e) States may also require individuals in JOBS to participate in substance abuse treatment (in conjunction with another JOBS activity or activities) as part of the employability plan.

6. Definition of the Time Limit

Current Law

Some States (those which did not have an AFDC–UP program in place as of September 26, 1988) are permitted to place a type of time limit on participation in the AFDC–UP program, restricting eligibility for AFDC–UP to as few as 6 months in any 13-month period (Section 407(b)). Thirteen states presently impose time limits on AFDC–UP eligibility. Under current law, however, no other type of time limits may be placed on participation in the AFDC program.

Vision

Most of the people who enter the welfare system do not stay on AFDC for many consecutive years. It is much more common for recipients to move in and out of the welfare system, staying a relatively brief period each time. Two out of every three persons who enter the welfare system leave within two years and fewer than one in ten spends five consecutive years on AFDC. Half of those who leave welfare return within two years, and three of every four return at some point in the future. Most recipients use the AFDC program not as a permanent alternative to work, but as temporary assistance during times of economic difficulty.

While persons who remain on AFDC for long periods at a time represents only a modest percentage of all people who ever enter the system, however, they represent a high proportion of those on welfare at any given time. Although many face very serious barriers to employment, including physical disabilities, others are able to work but are not moving in the direction of self-sufficiency. Most long- term recipients are not on a track toward obtaining employment that would enable them to leave AFDC.

The proposal would establish, for adult recipients who were not deferred, a cumulative time limit of two years on the receipt of AFDC benefits not contingent upon work, with extensions to the time limit to be granted under certain circumstances. Months in which an individual was deferred would not count against the time limit. Individuals who have left welfare for extended periods of time would be eligible for a cushion of a few months of AFDC benefits.

The two-year time limit is part of the overall effort to shift the focus of the welfare system from disbursing funds to promoting self-sufficiency through work. This time limit gives both the recipient and the welfare agency a structure that necessitates

steady progress in the direction of employment and economic independence. As discussed in the WORK specifications below, recipients who reach the two-year time limit without finding an unsubsidized job would be offered publicly subsidized jobs to enable them to support their families.

Specifications

(a) The time limit would be a limit of 24 on the cumulative number of months of AFDC benefits an adult (parent) could receive before being required to participate in the WORK program (see Teen Parents for treatment of young custodial parents). In other words, the 24 months would begin with the initial AFDC payment (or with the first payment following redetermination, in the case of persons on AFDC prior to the effective date of the legislation). Months in which an individual was receiving assistance but was deferred rather than in JOBS would not count against the 24-month time limit (see Deferral above).

(b) The 24-month time clock would not begin to run until a custodial parent's 18th birthday. In other words, months of receipt as a custodial parent before the age of 18 would not be counted against the time limit.

(c) A record of the number of months of eligibility remaining would be kept for each individual subject to the time limit. Non-parent caretaker relatives would not be subject to the time limit.

(d) The State agency would be required to advise each recipient subject to the time limit as to the number of months of eligibility remaining for him or her no less frequently than once every six months (see Semiannual Assessment below). In addition, the State agency would be required to contact and schedule a meeting with any recipient who was approaching the 24-month time limit at least 90 days prior to the end of the 24 months (see Transition to Work/WORK below).

7. AFDC-UP Families and the Time Limit

Specifications

(a) In an AFDC-UP family, both parents would be subject to the time limit if either parent were in the phased-in group (see below). A separate record of months of eligibility remaining would be kept for each parent. If one parent in an AFDC-UP family were deferred, that parent would not be subject to the time limit—months in deferred status would not count against that individual's 24-month limit. The other parent, however, would still be subject to the time limit. A deferral of one parent in an AFDC-UP family would not count against the cap on deferral for good cause.

(b) If one parent had reached the time limit and the other had not, the parent who had reached the time limit would be required to enter the WORK program. If the parent who had reached the limit declined to participate in the WORK program, that parent's needs would no longer be considered in calculating the family's grant. His or her income and resources would still be taken into account. The family would still be eligible for the remainder of the benefit (essentially, the other parent and the children's portion) until the other parent reached the two-year limit.

(c) If a parent in an AFDC-UP family reached the time limit but declined to enter the WORK program, the needs of that individual would (as above) not be taken into account in calculating the AFDC benefit. If such a parent subsequently reversed course and entered the WORK program, he or she would be considered part of the assistance unit for the purpose of determining any supplemental AFDC benefit and would also be eligible for a WORK assignment. As discussed in the WORK specifications below, a State would not be required to provide WORK assignments to both parents in an AFDC-UP family.

(d) Months in which a parent in an AFDC-UP family met the minimum work standard would not count against that parent's time limit. If the combined hours of work for both parents were equal to an average of 30 or more per week (up to 40 at State option), neither parent would be subject to the time limit (see Minimum Work Standard).

(e) If one of the two parents in an AFDC-UP family were sanctioned under the WORK program or under JOBS for refusing to accept an unsubsidized job, the sanctions described below (see Sanctions/Penalties) apply, regardless of the status of the second parent.

(f) With respect to the phase-in, both parents in an AFDC-UP family would be considered subject to the new rules if either parent were in the phased-in group. If the parents in an AFDC-UP family subject to the new rules subsequently separated, both would still be subject to the new rules.

(g) States which placed separate limits on AFDC-UP eligibility (e.g., 6 months in any 13-month period) would not be permitted to apply the two-year limit or any related provisions to AFDC-UP families. In these States, all AFDC-UP families would be treated as part of the not-phased-in group.

8. Teen Parents

Vision

Persons under 18 are not ready to be independent and should generally be in school. Under the proposed law, minor parents would not be allowed to set up independent households. They would receive case management and be expected to remain in school. A teen parents's time clock would not begin to run until he or she turned 18 (and could establish an independent household).

Specifications

(a) States would be required to provide case management services to all custodial parents under 20.

(b) All custodial parents under 20 who has not completed high school or the equivalent would be required to participate in the JOBS program, with education as the presumed activity. The 24-month time clock, however, would not begin to run until a custodial parent turned 18. In other words, months of receipt as a custodial parent before the age of 18 would not be counted against the time limit.

(c) Custodial parents under 20 who had not completed high school or the equivalent and who had a child under one would be required to participate in JOBS as soon as the child reached twelve weeks of age. States would be permitted to defer custodial parents under 20 in the event of a serious illness or other condition which precluded school attendance.

(d) Custodial parents who were eligible for and receiving services under the Individuals with Disabilities Education Act would receive an automatic extension up to age 22 if needed to complete high school. These extensions would not be counted against the cap on extensions.

9. JOBS Services

Current Law

A range of services and activities must be offered by States under the current JOBS program, but States are not required to implement JOBS uniformly in all parts of the State and JOBS programs vary widely among States. The services which must be provided as part of a State's JOBS program are the following: educational activities, including high school and equivalent education, basic and remedial education, and education for persons with limited English proficiency; job skills training; job readiness activities; job development and job placement; and supportive services to the extent that these services are necessary for participation in JOBS. Supportive services include child care, transportation and other work-related supportive services. States must also offer, in addition to the aforementioned services, at least 2 of the following services: group and individual job search, on-the-job training (OJT), work supplementation programs and community work experience programs.

Vision

The definition of satisfactory participation in the JOBS program would be broadened to include additional activities that are necessary for individuals to achieve self-sufficiency. States would continue to have broad latitude in determining which services were provided under JOBS. Greater emphasis, however, would be placed on job search activities, to promote work and employment.

Specifications

Up-Front Job Search

(a) All adult new recipients in the phased-in group (and minor parents who had completed high school) who were judged job-ready would be required to perform job search from the date assistance began. Job ready would be in general defined as having either non-eligible work experience, or a high school diploma or the equivalent. States would include a more detailed definition of job-ready in the State plan. The definition would have to exclude persons who met or appeared likely to meet one of the deferral criteria. A formal determination as to deferral, however, would not be required at this point.

(b) States would have the option of requiring all job-ready new recipients, including those in the not-phased-in group, to perform up-front job search. States would also be permitted to require job search from the date of application (as under current law, this requirement could not be used as a reason for a delay in making the eligibility determination or issuing the payment).

(c) The permissible period of initial job search would be extended from 8 weeks to 12.

Other Provisions Concerning JOBS Services

(d) States would be required to include job search among the JOBS services offered.

(e) Clarify the rules so as to limit job search (as the exclusive activity, i.e., not in conjunction with other services) to 4 months in any 12-month period. The up-front job search (described above) and the 45-90 days of job search required immediately before the end of the two-year time limit (see Transition to Work/WORK below) would both be counted against the 4-month limit.

(f) Amend section 482(d)(1)(A)(i)(I) by replacing "basic and remedial education to achieve a basic literacy level" with "employment-oriented education to achieve literacy levels needed for economic self-sufficiency".

(g) Self-employment programs, including microenterprise training and activities, would be added to the list of optional JOBS activities.

(h) Increase the limit on Federal reimbursement for work supplementation program expenditures from the current ceiling, which is essentially based on a maximum

length of participation in a work supplementation program of 9 months, to a level based on a maximum length of participation of 12 months.

(i) Change the nondisplacement language to permit work supplementation participants to be assigned to unfilled vacancies in the private sector, provided such placements did not violate the other nondisplacement provisions in current law.

(j) Alternative Work Experience would be limited to 90 days within any 12-month period.

(k) The State plan would be required to include a description of efforts to be undertaken to encourage the training and placement of women and girls in nontraditional employment, including steps to increase the awareness of such training and placement opportunities.

(l) States would be required to indicate in the State plan whether and how they will make training as child care providers available to participants.

(m) The State plan would include procedures to ensure that, to the extent possible, (external) service providers promptly notify the State agency in the event of noncompliance by a JOBS participant, e.g., failure to attend a JOBS activity.

(n) Amend the language in Social Security Act section 483(a)(1) which requires that there be coordination between JPTA, JOBS and education programs available in the State to specifically require coordination with the Adult Education Act and Carl D. Perkins Vocational Educational Act.

(o) Where no appropriate review were made (e.g., by an interagency board), the State council on vocational education and the State advisory council on adult education would review the State JOBS plan and submit comments to the Governor.

(p) The agency administering the JOBS and WORK program would be prohibited by regulation from referring participants to, contracting with or otherwise making IV-F of IV-G funds available to a provider of education and training services if such institution were disqualified from participation in a program under Title IV of the Higher Education Act or under the Reemployment Act. A State would be provided, by regulation, the option of applying the alternative eligibility procedure established under the Reemployment Act of potential providers of JOBS or WORK services.

10. Minimum Work Standard

Specifications

(a) The minimum work standard would be an average of 20 hours of (unsubsidized) work per week during the month, with a State option to increase to up to an average of 30 hours per week. States would also have the option to set different minimum work standards for different subgroups (e.g., mothers of children under 6), provided that the standard for each subgroup were at least 20 and no more than 30 hours per week.

(b) Months in which an individual met the minimum work standard would not count against the time limit. In an AFDC-UP family, if one parent met the minimum work standard, he or she would not be subject to the time limit. Months in which the combined hours of both parents equaled or exceeded 30 (up to 40 at State option) would not count against the time limit for either parent.

(c) An individual who had not reached the time limit and was meeting the minimum work standard would be counted as a JOBS participant (see JOBS PARTICIPATION below).

(d) A person who had reached the time limit but was meeting the minimum work standard would be eligible for supplemental AFDC benefits, if otherwise eligible for FDS (see EARNINGS SUPPLEMENTATION below).

(e) A State would be required to offer a WORK assignment to an individual working in an unsubsidized job for a number of hours less than the minimum work standard (provided the person were otherwise eligible for the WORK program; e.g., met income and resource tests). The WORK assignment would be structured, to the extent possible, not to interfere with the unsubsidized employment.

(f) Persons meeting the minimum work standard would be required to accept additional hours of unsubsidized work if offered, provided such work met the relevant standards (e.g., health and safety) for unsubsidized employment and the total number of hours did not exceed an average of 35 per week. Such Individuals would also be prohibited from reducing the number of hours worked with the intent of receiving additional benefits.

11. Jobs Participation

Current Law

Under the Family Support Act of 1988, which created the JOBS program, minimum JOBS participation standards (the percentage of the non-exempt AFDC caseload participating in JOBS at a point in time) were established for fiscal years 1990 through 1995. States face a reduced Federal match rate if those standards are not met. In FY 1993 States were required to ensure that at least 11% of the non-exempt caseload in the State was participating in JOBS (in an average month). The standard increased to 15% for FY 1994 and will rise to 20% for FY 1995. There are no standards specified for the fiscal years after FY 1995. Individuals who are scheduled for an average of 20 hours of JOBS activities per week and attend for at least 75% of the scheduled hours are countable for participation rate purposes. States are required to meet separate, higher participation standards for principal earners in AFDC-UP families. For FY 1994, a number of AFDC-UP parents equal to 40 percent of all AFDC-UP principal earners are required to participate in work activities for at least 16 hours per week. The standards rises to 50 percent for FY 1995, 60 percent for FY 1996 and 75 percent for each of the fiscal years 1997 and 1998.

Vision

To transform the welfare system from an income support system into a work support system, the JOBS program must be expanded significantly. This substantial increase in the number of JOBS participants would be phased in over time.

Specifications

(a) The JOBS program targeting requirements would be eliminated. The separate AFDC-UP participation standards in current law would remain in place.

(b) Individuals in self-initiated education and training activities (including, but not limited to, post-secondary education) would receive child care benefits if and only if such activities were approved through the JOBS program. Costs of such education and training would not be reimbursable under JOBS. Child care and supportive services expenditures, however, would be matchable through IV-A and JOBS, respectively.

(c) The definition of participation would be altered by regulation such that an individual enrolled half-time in a degree-granting post-secondary educational institution who was making satisfactory academic progress (as defined by the Higher Education Act) and whose enrollment was consistent with an approved employability plan would be considered to be participating satisfactorily in JOBS, even if such a person were scheduled for fewer than 20 hours of class per week.

(d) The definition of JOBS participation would be broadened to include working in jobs that met the minimum work standard (see above).

(e) The broadened definition of participation would include participation in a structured microenterprise program. As above, satisfactory participation in such a microenterprise program would meet the JOBS participation requirement, even if the scheduled hours per week were fewer than 20.

JOBS Participation for the Not-Phased-in Group

Specifications

(f) A State would be required to continue providing services to a person already participating in JOBS as of the effective date, consistent with the employability plan in place as of that date.

(g) States would be given substantial flexibility regarding JOBS services for persons not in the Federally-defined phased-in group (custodial parents born after 1971), as discussed below:

i. A State would be required to serve volunteers from the not-phased-in group to the extent that Federal JOBS funding was available (i.e., the State had not drawn down its full JOBS allotment). States would have the option of subjecting such JOBS volunteers to the time limit. A State would be required to describe in the State plan its policy with respect to volunteers.

ii. States could define the phased-in group more broadly, e.g., parents born after 1971 and all new applicants (see EFFECTIVE DATE AND DEFINITION OF THE PHASED-IN GROUP above). In addition, a State could require recipients who were not in its phased-in group to participate in JOBS, and sanction such an individual for failure to comply, but that person would not be subject to the time limit. An individual in either the phased-in or the not-phased-in groups who met one of the deferral criteria could not be required to participate in JOBS.

12. JOBS Funding

Current law

Under current law, the capped entitlement for JOBS is distributed according to the number of adult recipients in a State, relative to the number in all States. State expenditures on JOBS are currently matched at three different rates. States receive Federal matching funds, up to the State's 1987 WIN allocation, at a 90 percent Federal match rate. Expenditures above the amount reimbursable at 90 percent are reimbursed at 50 percent, in the case of spending on administrative and work-related supportive service costs, and at the higher of 60 percent or FMAP in the case of the cost of full-time JOBS program staff and other program expenditures (apart from spending on child care, which does not count against the jobs capped allotment and is matched at FMAP). The JOBS entitlement (Federal funding) is capped at $1.1 billion for FY 94, $1.3 billion for FY 95, and $1 billion for FY 96 and each subsequent fiscal year.

Specifications

(a) The capped entitlement of JOBS would be allocated according to the average monthly number of adult recipients (which would include WORK participants) in the State relative to the number in all States (similar to current law).

(b) The JOBS capped entitlement (Federal) would be set at $1.75 billion for FY 1996 ($300

million of which would be designated for the Secretary's Fund; see below), $1.7 billion for FY 1997, $1.8 billion for FY 1998 and $1.9 billion for fiscal years 1999 through 2004. For fiscal year 2005 and each fiscal year thereafter, the level of the cap would be set at $1.9 billion adjusted for inflation using the Consumer Price Index.

(c) The Federal match rate (for each State) for all JOBS expenditures under the proposed law would be set at the following levels: FMAP plus five percentage points, with a floor of 65 percent, for fiscal years 1996 and 1997; at FMAP plus seven percentage points, with a floor of 67 percent, for FY 1998; at FMAP plus nine percentage points, with a floor of 69 percent, for FY 1999; and at FMAP plus ten percentage points, with a floor of 70 percent, for FY 2000 and each fiscal year thereafter. Spending for direct program costs, for administrative costs and for the costs of transportation and other work-related supportive services (apart from child care) would all be matched at this single rate. The current law hold harmless provision, under which expenditures up to a certain level are matched at 90 percent, would be eliminated. The enhanced match rate would become effective upon statewide implementation of the new legislation. Statewide for this purpose would be defined as a number of persons subject to the time limit that equaled or exceeded 90% of the federally defined phased-in group. The numerator for this calculation would be individuals in the State's phased-in group who were subject to the time limit; the denominator would be custodial parents born after 1971. A State would be eligible for the enhanced match rate prior to reaching the 90 percent level if it had in place an approved plan for achieving, within two years of initial implementation, that target.

(d) To qualify for the enhanced match rate, a State's total spending (State share) for JOBS, WORK (matchable from the WORK capped entitlement) and for IV-A, Transitional and At-Risk Child Care for a fiscal year would have to equal or exceed the State's total spending for JOBS and the IV-A, Transitional and At-Risk Child Care for Fiscal Year 1994 but could in no event be less than the total of such spending for Fiscal Year 1993.

(e) If a State did not qualify for the enhanced match rate by meeting the requirements in (c) and (d) above, its Federal match rate for JOBS and WORK (WORK operational costs) for the fiscal year in question would be reduced to a rate equal to the higher of FMAP and 60 percent (for all JOBS spending) and its Federal match rate for spending on the child care programs for that fiscal year would be reduced to FMAP.

(f) A State would be permitted, beginning in FY 97, to reallocate an amount up to 10% of its combined JOBS and WORK allotments (WORK allotments from the capped entitlement) from its JOBS program to its WORK program and vice versa. The amount transferred could not exceed the allotment for the program from which the transfer was made.

Example: A State with a $5 million JOBS allotment and a $6 million allotment from the WORK capped entitlement (see WORK Funding below) can allocate $1.1 million from JOBS to WORK or vice versa. The State finds that spending on the JOBS program is running higher than expected and so it opts to reallocate $600,000 from WORK to JOBS. The State can now draw down up to $5.6 million, rather than $5 million, in Federal funding for JOBS expenditures. On the other hand, the State can now receive only $5.4 million in Federal matching funds, at WORK match rate (capped entitlement), for spending on WORK costs.

(g) If the States did not claim all available Federal JOBS and WORK funding (WORK capped entitlement) for a fiscal year, a State could draw down Federal funds for JOBS and/or WORK in excess of its allotments. The additional Federal funding would be drawn from the unobligated balance (JOBS and WORK money not spent by other States). A State would have to draw down its full allocations for both JOBS and WORK to be able to draw down unspent funds beyond these allotments (for spending on either program). This would require legislative authority to distribute unobligated funds from one fiscal year during the subsequent fiscal year and to distribute unliquidated obligations from a fiscal year during, not the succeeding fiscal year, but the one after that (two years afterward).

Example: During FY 99, seven States spend on JOBS and WORK at a level that would draw down Federal funding in excess of their allotments. The FY 99 JOBS and WORK allotments for the seven States total $100 million, but the level of State match contributed for the two programs would enable the seven to draw down $110 million in Federal funds, absent the limitations on State allocations, for a difference of $10 million. The total amount of unobligated JOBS and WORK funding for FY 99 (based on States' drawing down JOBS and WORK funding only up to the level of their allotments) is $7 million. Each of the seven States would receive 70 cents for each dollar of Federal funding it could potentially have drawn down beyond the level of its JOBS and WORK allotments. State A, which would have drawn down an additional $1 million in Federal funding above its allocations, in the absence of any limitations, would receive $700,000 in additional Federal funding. If the amount of unobligated JOBS and WORK funding exceeded $10 million, the seven States would receive the full $10 million in additional Federal funding.

(h) If the rate of total unemployment in a State for a fiscal year equaled or exceeded the (total unemployment rate) trigger for extended unemployment compensation (currently 6.5 percent), and the State's total unemployment rate for that fiscal year equaled or exceeded 110 percent of that rate for either (or both) of the two preceding fiscal years, the State match rate for JOBS, WORK and At-Risk Child Care for that fiscal year would be reduced by ten percent (not by ten percentage points; e.g., from 30 percent to 27 percent, not from 30 percent to 20 percent). The adjustment to the match rate would become effective only if the State obligated sufficient funding to draw down its full allotments for JOBS, WORK and At-Risk Child Care at the pre-adjustment match rate. The State could then, as described above, draw down unspent JOBS and WORK funds at the higher match rate.

Example: State A obligates sufficient funding to draw down its full allocations for JOBS, WORK and At-Risk Child Care at the pre-adjustment match rates. The State match rate for JOBS and WORK is 25%, the total State contribution to both programs is $1 million and its total Federal allotment for both programs is $3 million. If the unemployment rate in State A for the fiscal year exceeded the trigger level (described above), the State match rate would be reduced from 25 to 22.5 percent. State A could then potentially draw down an additional $450,000 ($3.45 million minus $3 million) in Federal funds. Referring to the example above, the $450,000 would be placed in the pool with the $10 million the seven aforementioned States could potentially draw down beyond the level of their allotments. If the unobligated balance for the fiscal year were sufficient, State A would receive the full $450,000 and the seven other States would receive the full $10 million. If not, each of the eight States would receive a pro-rated amount (e.g., 65 cents on the dollar).

(i) The capped entitlement for JOBS for a fiscal year would rise by 2.5 percent if the average national total unemployment rate for the last two quarters of the previous fiscal year or the first two quarters of that fiscal year equaled 7 percent. For each tenth of a percentage point by which the national unemployment rate for either of those two-quarter periods exceeded 7 percent, the cap would be increased by an additional .25 percent. For example, if the unemployment rate for the last two quarters of the preceding fiscal year were 8.1 percent, the JOBS cap for the fiscal year would be increased by a total of 5.25 percent (2.5 percent for reaching 7 percent plus an additional 2.75 percent for the 1.1 percentage points over 7). Each State's allotment would increase accordingly.

In other words, a determination would be made at the beginning and in the middle of the Federal fiscal year as to whether the JOBS cap should be increased (i.e., whether the unemployment trigger level had been reached). If the cap were increased at the beginning of the year, an adjustment would not also be made at the middle of the year.

The same provision would apply to the capped entitlement of WORK (as described below) and to At-Risk Child Care.

(j) Funding for teen case management (see Teen Parents above) would be provided not as a set-aside, but as additional dollars within the JOBS capped entitlement.

13. Semiannual Assessment

Specifications

(a) The State agency would be required, on at least a semiannual basis, to conduct a review of the employability plan for both JOBS participants and for deferred persons who had an employability plan in place, to evaluate progress toward achieving the goals in the plan. This assessment, which would be done in person, could be integrated with the annual AFDC eligibility redetermination. Persons in deferred status found to be ready for participation in employment and training could be assigned to the JOBS program following the assessment. Conversely, persons in the JOBS program discovered to be facing very serious obstacles to participation could be deferred. Other revisions to the employability plan would be made as needed.

(b) The assessment would entail an evaluation of the extent to which the State was providing the services called for in the employability plan. In instances in which the State was found not to be delivering the specified education, training and/or supportive services, the agency would be required to take steps to ensure that the services would be delivered from that point forward.

14. Transition to Work/WORK

Specifications

(a) Persons would be required to engage in job search during a period of not less than 45 days (up to 90 days, at State option) before taking a WORK assignment. The employability plan would be modified accordingly. In most cases, the job search would be performed during the 45–90 days immediately preceding the end of the time limit.

(b) The State agency would be required to schedule a meeting with any recipient approaching the end of the 24-month time limit

at least 90 days in advance of that individual's reaching the limit. The State agency would, as part of the 90-day assessment, evaluate the recipient's progress and employability to determine if an extension were appropriate to, for example, complete a training program in which the recipient was currently enrolled (see Extensions below). The State agency would be required to inform the recipient, both in writing and at the face-to-face meeting, of the consequences of reaching the time limit—the need to register for the WORK program in order to be eligible for further support, in the form of a WORK assignment. Recipients would also be apprised of the requirement to engage in job search for the final 45-90 days and of the State's extension policy.

(c) States would have the option of providing an additional month of AFDC benefits to individuals who found employment just as their eligibility for AFDC benefits/JOBS participation ended, if necessary to tide them over until the first paycheck.

(d) The State agency would notify the recipient, either by phone or in writing, of the purpose and need for the 90-day meeting, and the State agency would be required to make additional attempts at notification if the recipient failed to appear.

(e) For persons re-entering the JOBS program (including those previously assigned deferred) with fewer than six months of eligibility remaining, the development/revision of the employability plan could be considered the 90-day meeting, if the requisite information were provided at that point. In the case of an individual re-entering with fewer than 90 days of eligibility, the meeting would be held at the earliest possible date.

(f) The semiannual assessment could be treated as the 90-day meeting, provided it fell within the final six months of eligibility. Conversely, the 90-day assessment would meet the requirement for a semiannual assessment.

Worker Support

(g) States would be encouraged to use JOBS or WORK funds (from the capped WORK allocation; see below), to provide services designed to help persons who had left the JOBS or WORK programs for employment keep those jobs.

Services could include case management, work-related supportive services, and job search and job placement assistance for former recipients who had lost their jobs. Case management could entail assistance with money management, mediation between employer and employee and aid in applying for advance payments of the EITC. Work-related supportive services could include payments for licensing or certification fees, clothing or uniforms, auto repair or other transportation expenses and emergency child care expenses.

15. Extensions

Specifications

(a) States would be required to grant extensions to persons who reached the time limit without having had adequate access to the services specified in the employability plan. In instances in which a State failed to substantially provide the services, including child care, called for in the employability plan, the State would be required to grant an extension equal to the number of months needed to complete the activities in the employability plan (up to a limit of 24 months). States would be mandated to take the results of the semiannual assessment(s) into account in determining if services were delivered satisfactorily. If an extension were granted on the grounds of inadequate service delivery, the employability plan could be revised, as appropriate, at that point. Disagreements about revisions to the plan would be subject to the same dispute resolution and sanctioning procedures as was the initial development of the plan.

(b) If the State agency and the recipient disagreed with respect to whether services were substantially provided and hence as to whether the recipient was entitled to an extension, the State agency would be mandated to inform the recipient of her or his right to a fair hearing on the issue. All hearings would be held prior to the end of the individual's 24 months of eligibility.

(c) In a fair hearing regarding a recipient's claim that he or she was entitled to an extension due to State failure to make available the services in the employability plan, the State would have to show what services were provided. A recipient would be entitled to an extension if the hearing officer found that the recipient was unable to complete the elements of the employability plan because services, including necessary supportive services, were not available for a significant period of time. If it were determined that adequate services were not provided, an extension would be granted and the recipient and State agency would revise the employability plan, as appropriate (see above).

(d) Persons enrolled in a structured learning program (including, but not limited to, those created under the School-to-Work Opportunities Act) would be granted an extension up to age 22 for completion of such a program. A structured learning program would be defined as a program that begins at the secondary school level and continues into a post-secondary program and is designed to lead to a degree and/or recognized skills certificate. Such extensions would not count against the cap on extensions (see below).

(e) States would also be permitted, but not required, to grant extensions of the time limit under the circumstances listed below, up to 10% of all adults and minor parents required to participate in JOBS and subject to the time limit. Extensions due to State failure to deliver services, as discussed above, would be counted against the cap. A State would, however, be required to grant an extension if services were not provided, regardless of whether the State was above or below the 10% cap.

(1) For completion of a GED program (extension limited to 12 months).

(2) For completion of a certificate-granting training program or education activity, including post-secondary education or a structured microenterprise program expected to enhance employability or income. Extensions to complete a two or four-year college degree would be conditioned on simultaneous participation in a work-study program, or other part-time work (for at least an average of 15 hours per week).

The extension is contingent on the individual's making satisfactory academic progress, as defined by the Higher Education Act (extension limited to 24 months).

(3) In cases of persons who are learning disabled, illiterate or who face language barriers or other substantial obstacles to employment. This would include a person with a serious learning disability whose employability plan to date has been designed to address that impediment and who consequently has not yet obtained the job skills training needed to secure employment (extension not limited in duration).

The State agency would be required to set a duration for each extension granted, sufficient to, for example, finish a training program already underway or, in the event of a State failure to provide services, to complete the activities in the employability plan.

(f) States would be required to continue providing supportive services as needed to persons who had received extensions of the time limit.

(g) A State would be permitted, in the event of extraordinary circumstances, to apply to the Secretary to have its cap on extensions raised. The Secretary would be required to make a timely response to such requests (see Deferral above).

(h) The Secretary would develop and transmit to Congress (see Deferral above), by a specified date, recommendations regarding the level of the cap on extensions; the Secretary could, as mentioned above, recommended that the cap be raised, lowered or maintained at ten percent.

16. Qualifying for Additional Months of Eligibility

Specifications

(a) Persons who had left AFDC with fewer than six months of eligibility for AFDC benefits/JOBS participation remaining would qualify for a limited number of additional months of eligibility, to serve as a cushion. An individual in this category (fewer than 6 months of eligibility remaining) would qualify for one additional month of eligibility for every four months during which the individual did not receive AFDC and was not in the WORK program, up to a limit of six months of eligibility at any time.

(b) Persons who left the WORK program would also be able to qualify for up to 6 months of eligibility for AFDC benefits/JOBS participation, just as described in (a).

(c) Individuals re-entering the AFDC program would be subject to the up-front job search requirement, as described above under JOBS Services.

Administration of JOBS/WORK

Current law

By statute JOBS must be administered by the IV-A agency. State IV-A agencies may delegate to or contract (either through financial or non-financial agreements) with other entities such as JTPA to provide a broad range of JOBS services. The IV-A agency must retain overall responsibility for the program (including program design, policy-making, establishing program participation requirements) and any actions that involve individuals (including determination of exemption status, determination of good cause, application of sanctions, and fair hearings).

HHS/ACF makes grants to the IV-A agency based on the allocation formula outlined in the statute and holds the IV-A agency accountable for meeting participation and target group expenditure requirements as well as submitting all necessary program and financial reports.

Vision

JOBS and WORK would be administered by the IV-A agency unless the Governor designates another entity to administer the programs. If the Governor designates an agency other than the IV-A agency to administer JOBS/WORK, then any plan or other document submitted to HHS to operate the programs would be jointly submitted by the administering entity and the IV-A agency.

Based on the Governor's designation. HHS/ACF would make grants to the administering entity and hold that entity responsible for submitting program and financial reports and meeting appropriate performance standards.

In a State that elects to operate one-stop career centers, JOBS/WORK would be required components of the one-stop career centers.

17. Overall Administration

Specifications

(a) JOBS and WORK must be designated by the same State entity.

(b) The Governor may designate the agency to administer JOBS/WORK. In the absence of the designation of another agency, the IV-A agency would administer JOBS/WORK.

(c) The Governor would determine whether the State had a State-wide one-stop career center system. The determination would be made at least every two years. If the Governor determined that the State had such a system, the JOBS/WORK program would participate in the operation of the one-stop career centers. The Governor would make one-stop career center services available to the participants in the JOBS/WORK components.

(d) If the Governor designated an entity other than the IV-A agency, then that agency and the IV-A agency would have to enter into a written agreement outlining their respective roles in carrying out JOBS/WORK.

(e) If the IV-A agency retained administration of JOBS, it would have the option of contracting with another entity or entities to carry out any and all functions related to JOBS/WORK. All contracts and agreements with such entities would be written.

(f) If the Governor designated an entity other than the IV-A agency, then that agency and the IV-A agency would be required to jointly submit any plan required to operate JOBS/WORK to the Secretary of HHS.

(g) Upon notification by the Governor of the designation of an entity other than the IV-A agency to administer JOBS/WORK, the Department of Health and Human Services would make all grant awards and hold accountable for all financial and reporting requirements the designated entity.

18. Specific Responsibilities of the IV-A Agency

Specifications

(a) No matter which entity has responsibility for JOBS/WORK, the IV-A agency must retain responsibility for:

(1) Determining eligibility for AFDC;

(2) Tracking and notifying families subject to the time limit of months left of eligibility;

(3) Applying sanctions;

(4) Making supplemental payments to eligible WORK participants and determining continuing eligibility for WORK and for AFDC payments;

(5) Notifying the JOBS/WORK agency at least 120 days before an individual's two-year limit was up so that appropriate steps (e.g., job search) could be taken; and

(6) Holding fair hearings regarding time limits and cash benefits.

19. Other Areas of Responsibility

Specifications

(a) In States where an entity other than the IV-A agency is responsible for JOBS/WORK, we propose to give States the flexibility to determine how the following functions are carried out. The State plan would have to contain specific information detailing how the State intended to carry out the following functions:

(1) Determining deferral status;

(2) Granting extensions to the time limits; and

(3) Providing secondary reviews and hearings on issues specifically related to JOBS or WORK participation.

WORK

Current law

There is at present under Title IV no work program of the type envisioned here. States are presently permitted to operate on-the-job training, work supplementation and community work experience programs as part of the JOBS program (Section 482(e) and 482(f), Social Security Act, 45 CFR 250.61, 250.62, 250.63). Regulations, however, explicitly prohibit States from operating a program of public service employment under the JOBS umbrella (45 CFR 250.47).

Vision

The focus of the transitional assistance program would be helping people move from welfare to unsubsidized employment. The two-year time limit for cash assistance not contingent on work is part of this effort. Some recipients will, however, reach the two-year time limit without having found a job, despite having participated satisfactorily in the JOBS program. We are committed to providing them with the opportunity to work to help support their families. The design of the WORK program will be guided by a principle central to the reform effort, that persons who work should be no worse off than those who are not working.

The WORK program would make work assignments (hereafter WORK assignments) in the public, private and non-profit sectors available to persons who had reached the time limit. States would be required to create a minimum number of WORK assignments, but would otherwise be given considerable flexibility in the expenditure of WORK program funds. For example, States would be permitted to contract with private firms and not-for-profits to place persons in subsidized or unsubsidized private sector jobs.

The WORK program would take the form of a work-for-wages structure. Participants in WORK assignments would be paid for hours worked; individuals who missed work would not be paid for those hours.

Definition: The terms "WORK assignment" and "WORK position" are defined as a job in the public, private or not-for-profit sectors to which an individual is currently assigned under the WORK program.

20. Establishment of a WORK Program

Specifications

(a) Each State would be required to operate a WORK program making WORK assignments available to persons who had reached the 24-month time limit for AFDC benefits not conditioned upon work.

21. WORK Funding

Specifications

(a) There would be two WORK program funding streams:

(1) A capped entitlement which would be distributed to States according to the sum of the average monthly number of persons required to participate in JOBS (and subject to the time limit) and the average monthly number of persons in the WORK program in a State relative to the number in all States.

(2) An uncapped entitlement to reimburse States for wages paid to WORK program participants, which would include wage subsidies to private, for-profit employers.

The capped entitlement would be for WORK operational costs, which would include expenditures to develop WORK assignments, placement bonuses to contractors and spending on other WORK program services such as supervised job search.

(b) A State would receive matching funds, up to the amount of the capped allocation, for expenditures for WORK operational costs at the WORK match rate, which would be set at the same level as the JOBS match rate (as described in JOBS Funding above). For expenditures on wages to WORK participants, including wage subsidies to private employers, a State would be reimbursed at its FMAP.

Example: State A's allocation (annual) from the capped WORK entitlement for FY 99 is $1.5 million. The State's WORK (and JOBS) match rate is 75 percent and its FMAP is 50 percent. The State spends a total of $5.2 million on the WORK program—$1.6 million to develop the WORK assignments, make performance-based payments to placement contractors, and provide jobs search services and $3.6 million on wage subsidies to private employers and wages for WORK participants in the public and not-for-profit sectors. State A would be reimbursed for the $1.6 million in spending on operational costs at the 75 percent capped allocation match rate, for a total of $1.2 million in reimbursement at that rate. For the $3.6 million in expenditures on WORK wages, the State would be reimbursed at the FMAP, for $1.8 million in Federal dollars from the uncapped stream and a total of $3 million in Federal matching funds.

As discussed in JOBS Funding above, the enhanced match rate would become effective upon statewide implementation of the new legislation, provided the State met the maintenance of effort requirement concerning its total spending for JOBS, WORK and for IV-A, Transitional and At-Risk Child Care. Prior to statewide implementation, the WORK match rate would be set at the higher of FMAP and 60 percent.

(c) The WORK capped entitlement would be set at $200 million for FY 1998, $700 million for FY 1999, $1.1 billion for FY 2000, $1.3 billion for FY 2001, $1.4 billion for FY 2002, $1.6 billion for FY 2003 and $1.7 billion for FY 2004. For fiscal year 2005 and each fiscal year thereafter, the level of the WORK capped entitlement would be set at $1.7 billion adjusted for inflation by the Consumer Price Index (CPI) and for the increase over time in the relative size of the phased-in group.

(d) As discussed above (see JOBS Funding), a State would be permitted to reallocate up to 10% of the combined total of its JOBS and WORK allotments from its JOBS program to its WORK program, and vice versa. A State would be permitted to reallocate up to 10% of its JOBS funding for FY 97 (the year prior to implication of the WORK program) to cover WORK program start-up costs.

(e) If, as described in JOBS Funding, the States were not able to claim all available Federal JOBS and WORK funding (WORK capped entitlement) for a fiscal year, a State would be able to draw down Federal funds, for WORK spending on operational costs, in excess of its allotment from the capped entitlement.

(f) As discussed in JOBS Funding above, if the rate of total unemployment in a State for a fiscal year equaled or exceeded the (total unemployment rate) trigger for an extended benefit period (currently 6.5 percent), and the State's total unemployment rate for that fiscal year equaled or exceeded 110 percent of that rate for either (or both) of the two preceding fiscal years, the State match rate for JOBS, WORK and At-Risk Child Care for that fiscal year would be reduced by ten percent.

(g) The capped entitlement for WORK for a fiscal year would rise by 2.5 percent if the average national total unemployment rate for the last two quarters of the previous fiscal

year or the first two quarters of that fiscal year equaled 7 percent. For each tenth of a percentage point by which the national unemployment rate for either of those two-quarters periods exceeded 7 percent, the WORK cap would be increased by an additional .25 percent. (identical to the provision concerning lifting the cap on JOBS funding; see JOBS Funding)

22. Flexibility

Specifications

(a) States would enjoy wide discretion concerning the spending of WORK program funds. A State could pursue any of a wide range of strategies to provide work to those who had reached the two-year time limit, including:

Offer wage subsidies and other incentives to for-profit, not-for-profit and public employers;

Execute performance-based contracts with private firms, not-for-profit or public organizations to place WORK participants in unsubsidized jobs;

Make payments to not-for-profit employers to defray the cost of supervising WORK participants;

Support microenterprise and self-employment efforts; or

Make payments to not-for-profit employers and public agencies to employ participants in temporary projects designed to address community needs, such as projects to enhance neighborhood infrastructure and provide other community services, or to employ participants as, for example, mentors to teen parents on assistance.

Employ WORK participants as child care workers or home health aides.

The approaches above would be listed in statute as examples, but States would not be restricted to these strategies.

23. Limits on Subsidies to Employers

Specifications

(a) An individual could hold a particular WORK assignment (i.e., the WORK subsidy could be paid) for no more than 12 months. Ideally, after the subsidy ended, the employer would retain the WORK participant in unsubsidized employment. After completing an assignment, an individual could not be reassigned to the same WORK position.

(b) The Secretary may adopt, as necessary, regulations to assure the appropriate use of the wage subsidy (e.g., to prevent fraud and abuse).

24. Coordination

Specifications

(a) The agency administering the WORK program would be required to coordinate delivery of WORK services with the public, private and not-for-profit sectors, including local government, large and small businesses, United Ways, voluntary agencies and community-based organizations (CBOs). Particular attention should be paid to involving the breadth of the community in the development of the WORK program in that locality.

(b) The State would be required to designate in the State plan, or describe a process for designating, bodies to serve as WORK advisory/planning boards for each JTPA Service Delivery Area in the State (or for such larger or smaller area as the State deems appropriate). The WORK planning board, which could be either an existing or a new body, would assist the administering entity in operating the WORK program in that area. The State would be mandated to involve local elected officials in the designation or establishment of such boards.

The planning board would work in conjunction with the WORK program agency to identify potential WORK assignments and opportunities for movement into unsubsidized employment, and to develop methods to ensure compliance with the requirements relating to nondisplacement, working conditions and coordination (as described in this section). WORK planning boards would have to include union and private, public (including units of general purpose local government) and not-for-profit (including CBOs) sector representation.

(c) States would have to establish a process by which WORK planning boards could submit comments regarding the development of the State plan.

(d) The WORK agency would be required to include in the State plan provisions for coordination with the State comprehensive reemployment system (including the Employment Service) and other relevant employment and public service programs in the public, private and not-for-profit sectors, including efforts supported by the Job Training Partnership Act or the National and Community Service Trust Act of 1993.

25. Retention Records

Specifications

(a) States would be required to keep a record of the rate at which employers (public, private and not-for-profit) retained WORK program participant (after the subsides ended). Similarly, States would be mandated to monitor the performance of placement firms.

26. Nondisplacement

Specifications

(a) The assignment of a participant to a subsidized job under the WORK program would not—

(1) result in the displacement of any currently employed worker, including partial displacement such as a reduction in the hours of non-overtime work, wages or employment benefits;

(2) impair existing contracts for services or collective bargaining agreements;

(3) infringe upon the promotional opportunities of any currently employed worker;

(4) result in the employment of the participant or filing of a position when—

(a) any other person is on layoff, on strike or has been locked out from, or has recall rights to, the same or a substantially equivalent job or position with the same employer; or

(b) the employer has terminated any regular employee or otherwise reduced its work force with the effect of filing the vacancy so created with such participant; or

(5) result in filling a vacancy for a position in a State or local government agency for which State or local funds have been budgeted and are available, unless such agency has been unable to fill such vacancy with a qualified applicant through such agency's regular employee selection procedure during a period of not less than 60 days.

(b) A participant would not be assigned to a position with a private, non-for-profit entity to carry out activities that are the same or substantially equivalent to activities that have been regularly carried out by a State or local government agency in the same local area, unless such placement meets the nondisplacement requirements described in this section of the specifications.

(c) No participant would be assigned to a position to perform work under a contract for services for the first 90 days after the commencement of such contract if such contract immediately succeeds a contract for services under which an employee covered by a collective bargaining agreement performed the same or substantially similar work for another employer.

27. Grievance, Arbitration and Remedies

Specifications

(a) Each State would establish and maintain grievance procedures for resolving complaints by regular employees or their representatives alleging violations of the nondisplacement provisions described above and the requirements relating to wages, benefits or working conditions described in these specifications.

(b) Hearings on any grievance filed pursuant to the provision above would be conducted within 30 days of the filing of such grievance and a decision would have to be made within 60 days of the filing. Except for complaints alleging fraud or criminal activity, a grievance would be made not later than 45 days after the date of the alleged occurrence.

(c) Upon receiving a decision, or if 60 days has elapsed without a decision being made, a grievant may do either of the following:

(1) file an appeal as provided for the State's procedures or in regulations promulgated by the Secretary, or

(2) submit such grievance to binding arbitration in accordance with the provisions of this section.

Arbitration

(d) In accordance with the appeal/arbitration provision above, on the occurrence of an adverse grievance decision, or 60 days after the filing of such grievance if no decision has been reached, the party filing the grievance would be permitted to submit such grievance to binding arbitration before a qualified arbitrator who was jointly selected and independent of the interested parties.

(e) If the parties could not agree on an arbitrator, the Governor would appoint an arbitrator from a list of qualified arbitrators within 15 days of receiving a request for such appointment from one of the parties to the grivence.

(f) An arbitration proceeding conducted as described here would be held not later than 45 days after the request for such arbitration, or if the arbitrator were appointed by the Governor (as described above) not later than 30 days after such appointment, and a decision concerning such grievance would be made not later than 30 days after the date of such arbitration proceeding.

(g) The cost of the arbitration proceeding conducted as described here would in general be divided evenly between the parties to the arbitration. If a grievant prevails in such an arbitration proceeding, the party found in violation would pay the total cost of such proceeding and the attorney's fees of the grievant.

(h) Suits to enforce arbitration awards under this section may be brought in any district court of the United States having jurisdiction over the parties, without regard to the amount in controversies and without regard to the citizenship of the parties.

Remedies

(i) Remedies for a grievance filed under this section include—

(1) suspension of payment for assistance under this title;

(2) the termination of such payments;

(3) the prohibition of the placement of a participant;

(4) reinstatement of a displaced employee to the position held by such employee prior to displacement;

(5) payment of lost wages and benefits of the displaced employee;

(6) reestablishment of other relevant terms, conditions and privileges of the displaced employee; and

(7) such equitable relief as is necessary to correct a violation or to make a displaced employee whole.

28. Written Notification of Labor Organizations

Specifications

(a) No WORK position could be established with an employer unless the local labor organization representing employees of such employer who were engaged in the same or substantially similar work as that proposed to be carried out under such position has been provided written notification of the initial assignment of a participant to such position not less than 30 days prior to the commencement of such an assignment. No such notification would be required with respect to the subsequent assignment of participants to the same position with the same employer.

(b) If a local organization which was provided notice of an assignment pursuant to (a) above objected to an assignment of a participant on the basis that such assignment would violate the requirements relating to nondisplacement, wages, benefits or working conditions as described in these specifications, such organizations could, as an alternative to the grievance procedures as described above, file a complaint pursuant to an expedited grievance procedure. Such expedited procedure would be carried out in accordance with the binding arbitration procedures described above, expect that—

(1) the request for arbitration would have to be filed within 30 days of receiving written notice.

(2) the arbitrator would be jointly selected by the parties not later than 10 days after the request for arbitration, or, if the parties were unable to agree, appointed by the Federal Mediation and Conciliation Service (or another entity, if agreed to by the parties) not later than 15 days after the request for arbitration, and

(3) the arbitration proceeding would be conducted and a decision issued not later than 30 days after the request for arbitration.

(c) If a local organization filed a complaint pursuant to the expedited grievance procedure described in this section of the specifications, a participant could not be placed in the prospective WORK position that was the subject of the complaint until it was determined, pursuant to the expedited grievance procedure, that such placement would not be in violation of any of the relevant provisions in these specifications.

29. WORK Eligibility Criteria and Registration Process

Specifications

(a) Recipients who had reached the two-year time limit for AFDC benefits not contingent upon work and who otherwise met the AFDC eligibility criteria (e.g., income and asset limits) would be eligible to enter the WORK program.

(b) States would be mandated to describe the WORK program, including the terms and conditions of participation, to all recipients at least 90 days before they were slated to reach the 24-month time limit (see Transition to Work/WORK above). Recipients who had reached the 24-month time limit would be required to register for the WORK program in order to be eligible for either a WORK assignment or for AFDC benefits while awaiting a WORK position (see Allocation of WORK Assignments/Interim Activities below).

(c) States would be required to establish a registration process for the WORK program. The registration process would in general include an assessment for the purpose of matching the participant with a WORK assignment which the individual had the ability to perform and which would assist him or her in securing unsubsidized employment. The agency would be expected to draw upon an individual's JOBS case record in making such an assessment. States would be prohibited from denying an eligible individual (as described above) entry into the WORK program, provided he or she followed the registration procedure.

(d) Only one parent in an AFDC-UP family would be required to participate in the WORK program. States would, however, have the option of requiring both parents to participate.

(e) An individual who had exited the system after having reached the time limit or after having entered the WORK program, but had not qualified for any additional months of AFDC benefits/JOBS participation (see Qualifying for Additional Months of Eligibility above) would be permitted to enroll, or re-enroll, in the WORK program.

Example: A WORK program participant finds a private sector job and leaves the WORK program, but is laid off after just one month, before qualifying for any months of AFDC benefits/JOBS participation (see above). This person would be eligible for the WORK program.

(f) States would be required, for persons in WORK assignments, to conduct a WORK eligibility determination (similar to an AFDC eligibility determination in all respects, except that WORK wages would not be included in countable income; see below) on a semi-annual basis. If the circumstances of an individual in a WORK assignment changed (e.g., increase in earned income, marriage) such that the family were no longer eligible for AFDC, the participant would be permitted to remain in the WORK assignment until the semiannual redetermination. An individual found to be ineligible for the WORK program as of the redetermination, however, would not be permitted to continue in that WORK assignment. Persons found to the ineligible for the WORK program would not have access to a WORK assignment, other WORK program services or to the AFDC benefits provided to persons in the WORK program who were not in WORK assignments.

(g) WORK wages would not be included in countable income for purposes of determining WORK eligibility. WORK wages would be included in countable income for purposes of calculating any supplemental AFDC benefit (see below).

30. Allocation of WORK Assignments/Interim Activities

Specifications

(a) The entity administering the WORK program in a locality would be required to keep an updated tally of all WORK registrants awaiting WORK assignments (as opposed to, for example, WORK participants who had been referred to a placement contractor). WORK positions would not be allocated strictly on a first-come, first-served basis. An individual whose sanction period had just ended would be placed in a new WORK assignment as rapidly as possible. Among other WORK participants, persons new to the WORK program would have priority for WORK assignments over persons who had previously held a WORK position.

(b) States would have the option of requiring persons who were awaiting WORK assignments to participate in other WORK program activities (e.g., individual or group job search, arranging for child care, self-initiated activities), and to establish mechanisms for monitoring participation in such activities. Persons in this waiting status could include WORK participants who had completed an initial WORK assignment without finding unsubsidized employment, participants whose assignments ended prematurely for reasons other than the participant's misconduct, and individuals awaiting a hearing concerning misconduct. Individuals who failed to comply with such participation requirements would be subject to sanction as described below (see Sanctions).

(c) States would be required to provide child care and other supportive services as needed to participate in the interim WORK program activities (described above).

(d) The family of a person who was in the WORK program but not in a WORK assignment (e.g., awaiting an assignment or in an alternate WORK activity) would receive AFDC benefits, provided that the individual were complying with any applicable requirements (as described above).

(e) Participants who left a WORK assignment for good cause (see Sanctions below) would be placed in another WORK assignment or enrolled in an interim or alternate WORK program activity (e.g., job search until a WORK assignment became available). Such persons and their families would be eligible for AFDC benefits (as outlined above).

(f) In localities in which the WORK program was administered by an entity other than the IV-A agency, the IV-A agency would still be responsible for AFDC benefits to families described in 10(d). States would not be permitted to distinguish between such families and other AFDC recipients with respect to the determination of eligibility and calculation of benefits-States could not apply a stricter standard or provide a lower level of benefits to persons on the waiting list.

31. Hours of Work

Specifications

(a) States would have the flexibility to determine the number of hours for each WORK assignment. The number of hours for a WORK assignment could vary depending on the nature of the position. WORK assignments would have to be for at least an average of 15 hours per week during a month and for no more than an average of 40 hours per week during a month.

Each State would be required, to the extent possible, to set the hours and wage rates for WORK assignments such that the wages from a WORK assignment represented at least 75 percent of the total of the wages and AFDC benefits received by a WORK participant. This would be a State plan requirement.

32. Earnings Supplementation

Specifications

(a) In instances in which the family income of an individual who had reached the time limit and was working in either a WORK assignment or an unsubsidized job that met the minimum work standard was not equal to the AFDC benefit for a family of that size, the individual and his/her family would receive an AFDC benefit sufficient to leave the family no worse off than a family of the same size that was on AFDC and had no earned income.

(b) With respect to eligibility and benefit determination, AFDC benefits for families described in (a) above would be identical to

AFDC benefits for persons who had not reached the two-year time limit, except that the supplemental AFDC benefit would not be adjusted up due to failure to work the set number of hours for a WORK assignment.

(c) The work expense disregard for the purpose of calculating any supplemental AFDC benefit would be set at the same level as the standard $120 work expense disregard. States which opted for more generous earnings disregard policies would be permitted but not required to apply these policies to WORK wages.

33. Treatment of Work Wages with Respect to Benefits and Taxes

Specifications

(a) Except as otherwise provided in these specifications, wages from WORK assignments would be treated as earned income with respect to Federal and Federal-State assistance programs other than AFDC (e.g., food stamps, SSI, Medicaid, public and Section 8 housing).

(b) WORK registrants and their families would be treated as AFDC recipients with respect to Medicaid eligibility, i.e., they would be categorically eligible for Medicaid (pending implementation of the Health Security Act). Persons who left the WORK program for unsubsidized employment would, as with former AFDC recipients, be eligible for transitional Medicaid.

(c) Persons in WORK assignments would be subject to FICA taxes. States would be required to ensure that the corresponding employer contribution for OASDI and HI was made, either by the employer or by the entity administering the WORK program (or through another method).

(d) Earnings from WORK positions would not be subject to tax, would not be treated as earned income or included in adjusted gross income for purposes of calculating the Earned Income Tax Credit, and would not be treated as qualified wages for purposes of the Targeted Jobs Tax Credit.

(e) The employment of participants under the WORK program would not be subject to the provisions of any Federal or State unemployment compensation law.

(f) To the extent that a State workers' compensation law were applicable, workers' compensation in accordance with such law would be available with respect to WORK participants. To the extent that such law were not applicable, WORK participants would be provided with medical and accident protection for on-site injury at the same level and to the same extent as that required under the relevant State workers' compensation statute.

(g) WORK program funds would not be available for contributions to a retirement plan on behalf of any participant.

(h) With respect to the distribution of child support, WORK participants would be treated exactly as individuals who had reached the time limit and were working in unsubsidized jobs meeting the minimum work standard. In instances in which the WORK participant were receiving AFDC benefits in addition to WORK wages, child support would be treated just as it would for any other family receiving AFDC benefits (generally, a $50 pass-through, with the IV-A agency retaining the remainder to offset the cost of the supplemental AFDC benefits).

34. Supportive Services/Worker Support

Specifications

(a) States would be required to guarantee child care for any person in a WORK assignment, as with JOBS program participants under current law (Section 402(g)(1), Social Security Act). Similarly, States would be mandated to provide other work-related supportive services as needed for participation in the WORK program (as with JOBS participants, Section 402(g)(2), Social Security Act).

(b) States would be permitted to make supportive services available to WORK participants who were engaged in approved education and training activities in addition to a WORK assignment or other WORK program activity. In other words, a State could, but would not be required to, provide child care or other supportive services to enable a WORK participant to, for example, also take a vocational education course at a community college.

35. Wages and Working Conditions

Specifications

(a) Participants employed under the WORK program would be compensated for such employment in accordance with appropriate law, but in no event at a rate less than the highest of—

(1) the Federal minimum wage specified in section 6(a)(1) of the Fair Labor Standards Act of 1938;

(2) the rate specified by the appropriate State or local minimum wage law;

(3) the rate paid to employees of the same employer performing the same type of work and having similar employment tenure with such employer.

(b) Except as otherwise provided in these specifications, participants employed under the WORK program would be provided benefits, working conditions and rights at the same level and to the same extent as other employees of the same employer performing the same type of work and having similar employment tenure with such employer.

(c) Employers would be expected to provide WORK participants health insurance coverage comparable to that provided other employees of that same employer performing the same type of work (with Medicaid serving as the secondary payer). WORK program funds would be available to subsidize the employer share of the cost of health insurance coverage. Exceptions to this requirement could be made in cases in which the provision of such coverage would be inordinately expensive or otherwise onerous.

NOTE: Under current law, a Medicaid recipient is required (if cost effective) to enroll in a health plan offered by an employer, and the State is required to use Medicaid funds to cover the full employee share (e.g., premiums, deductibles, copayments) of the cost of such health care coverage. Cost effective is defined as resulting in a net reduction in Medicaid expenditures.

(d) Employers would not be required to make contributions to retirement systems or plans on behalf of WORK participants.

(e) All participants would be entitled to a minimum number of sick and personal leave days, to be established by the Secretary. These would be provided by the employer, if they were provided to other comparable employees (employers may offer more days). The agency administering the WORK program would be required to design a method of providing the minimum number of sick and personal days to WORK participants whose employers did not provide such a minimum number. A person in a WORK assignment who became ill and exhausted her or his sick leave, or whose child required extended care, would be deferred from the WORK program if he or she met the deferral criteria.

(f) A parent of a child conceived while the parent was in the WORK program (and/or on AFDC) would be deferred for a twelve-week period following the birth of the child (or such longer period as is consistent with the Family and Medical Leave Act of 1993).

(g) Health and safety standards established under State and Federal law that are otherwise applicable to the working conditions of employees would be equally applicable to the working conditions of WORK participants.

36. Sanctions/Penalties (JOBS and WORK)

Current law (JOBS)

The sanction for the first instance of failure to particiate in JOBS as required (or failure to accept a private sector job or other occurrence of noncompliance) is the loss of the non-compliant individual's share of the grant until the failure to comply ceases. The same sanction is imposed, but for a minimum of 3 months, for the second failure to comply and for a minimum of 6 months, for all subsequent instances of non-compliance. The State, however, cannot sanction an individual for refusing to accept an offer of employment if that employment would result in a net loss of income for the family.

For sanctioned AFDC-UP families, both parents' shares are deducted from the family's grant, unless the second parent is participating in the JOBS program.

Specifications

JOBS Sanctions

(a) A State's conciliation policy (to resolve disputes concerning JOBS participation only) could take one of the following two forms:

(i) A conciliation process that meets standards established by the Secretary; or

(ii) A process whereby a recipient is notified, prior to the issuing of a sanction notice, that he or she in apparent violation of a program requirement and that he or she has 10 days to contact the State agency to explain why he or she is not out of compliance or to indicate intent to comply. Upon contact from the recipient, the State agency would attempt to resolve the issue and would have option of not imposing the sanction.

(b) Individuals sanctioned within the JOBS program would still have access to other available services, including JOBS activities, child care and Medicaid. Sanctioned months would be counted against the 24-month time limit.

(c) The sanction for refusing, without good cause, an offer of an unsubsidized job meeting the minimum work standard would be changed from the current penalty (removal of the adult from the grant) to loss of the family's entire AFDC benefit for 6 months or until the adult accepts a job offer, whichever is shorter. The Secretary would promulgate regulations concerning good cause for refusing a private sector job offer (see SANCTIONS below).

(d) Current law would be changed such that for sanctioned AFDC-UP families, the second parent's share of the benefit would not also be deducted from the grant, unless the second parent were also required to participant in JOBS and were similarly non-compliant.

(e) States would be required to conduct an evaluation of any individual who failed to cure a first sanction within 3 months or received a second sanction, in order to determine why the parent is not complying with the program requirements. Following such an evaluation, the State would, if necessary, provide counseling or other appropriate support services to help the recipient address the causes of the non-compliance.

Ineligibility for a WORK Assignment

(f) Persons may be declared ineligible for a WORK assignment due to misconduct related

to the program. Misconduct would include any of the following, provided good cause does not exist:

i. Failure to accept an offer of unsubsidized employment;

ii. Failure to accept a WORK assignment;

iii. Quitting a WORK assignment;

iv. Dismissal from a WORK assignment;

v. Failure to engage in job search or other required WORK activity (see ALLOCATION OF WORK ASSIGNMENTS/INTERIM ACTIVITIES above).

(g) The Secretary would establish regulations defining good cause for each of the following:

i. Refusal to Accept an Offer of Unsubsidized Employment or a WORK Assignment or to Participate in Other WORK Program Activity.

ii. Quitting a WORK Assignment or Unsubsidized Job. These regulations would include the provision that an employee must notify the WORK agency upon quitting a WORK assignment.

iii. Dismissal from a WORK Assignment. The regulations would allow a State, subject to the approval of the Secretary, to apply in such instances the definition of misconduct utilized in its unemployment insurance program. (A IV-A agency might be allowed to contract with the State Unemployment Insurance hearing system to adjudicate these cases.)

(h) A WORK participant would be notified of the agency's intent to impose a penalty and would have a right to request a hearing prior to the imposition of the penalty. The Secretary would establish regulations for the conduct of such hearings, which would include setting time frames for reaching decisions (e.g., 30 days from the date of request for hearing). A State would be permitted to follow the same procedures it utilizes in hearings regarding claims for unemployment compensation.

(i) Recipients awaiting a hearing for alleged misconduct may be required to participate in interim WORK program activities. Refusal, pending the hearing, to participate in such WORK program activities on the same grounds (e.g., bedridden due to illness) claimed as cause for the original alleged misconduct would not constitute a second occurrence of potential misconduct.

(j) Penalties imposed would be as follows:

i. Refusal to Accept an Offer of Unsubsidized Employment. A WORK participant who without good cause turned down an offer of an unsubsidized job that met the minimum work standard would be ineligible for a WORK assignment, and the family ineligible for AFDC benefits, for a period of 6 months (consistent with the JOBS sanction for refusing a job offer). Such an individual would be eligible for services, such as job search assistance, during this period.

ii. Quitting, Dismissal from or Refusal to Accept a WORK Assignment without Good Cause. A person who quit a WORK assignment without good cause, who was fired from a WORK assignment for misconduct related to the job, or who refused to take an assignment without good cause would be subject to the penalties described below.

For a first occurrence: The family would receive 50% of the AFDC grant that would otherwise be provided (i.e., if the individual were not sanctioned and were awaiting a WORK assignment) for one month or until the individual accepts a WORK assignment, whichever is sooner.

For a second occurrence: Fifty percent (50%) reduction in the family's grant for 3 months. The individual would not be eligible for a WORK assignment during this period—this penalty would not be curable upon acceptance of a WORK assignment.

For a third occurrence: Elimination of the family's grant for a period of 3 months. As with a second occurrence, the individual would not be eligible for a WORK assignment during this period.

For a fourth and subsequent occurrence: Same as the penalty for a third occurrence, except that the duration would be 6 months.

The State would be required to make job search assistance available to such penalized persons (any occurrence, first or subsequent) if requested.

iii. Refusal to Participate in Job Search or Other Required WORK Program Activity. An individual who refused to participate in job search (e.g., following a WORK assignment) or other required WORK program activity would be subject to the same penalty as persons who quit or were fired from WORK assignments, with each refusal to be considered one occurrence. If such a refusal constituted the first occurrence, the penalty, as above, would be curable upon engaging in the required activity.

iv. Quitting an Unsubsidized Job without Good Cause. Individuals who without good cause voluntarily quit an unsubsidized job that met the minimum work standard would not be eligible to register for the WORK program for a period of 3 months following the quit.

(k) All penalties (any occurrence, first or subsequent) would be curable upon acceptance of an unsubsidized job meeting the minimum work standard. In other words, a sanctioned individual who took an unsubsidized job meeting the minimum work standard would be treated exactly the same as an unsanctioned individual with respect to calculating any supplemental AFDC grant. If the family's income, net of work expenses, were lower than the AFDC grant for a family of that size, the family would receive a supplemental AFDC benefit sufficient to make up the difference (see Earnings Supplementation above). Such an individual would still not, however, be eligible for a WORK assignment during the penalty period (e.g., six months for refusal to take an unsubsidized job, three months for a second occurrence of another type of misconduct).

(l) Food stamp and housing law and regulations would be amended as necessary to ensure that neither food stamps nor housing assistance would rise in response to a JOBS or WORK penalty.

(m) A person ineligible for the WORK program, and the family, provided they were otherwise qualified, would still be eligible for other assistance programs, including food stamps, Medicaid and housing assistance.

(n) As described under AFDC-UP FAMILIES AND THE TIME LIMIT above, if one of the two parents in AFDC-UP family is sanctioned under the WORK program or under JOBS for failure to accept an unsubsidized job, the sanctions described in this section apply, regardless of the status of the other parent.

(o) The State would be required, upon imposition of a second WORK sanction, to conduct a thorough evaluation of the participant and the family to ascertain why the individual is not in compliance and to determine the appropriate services, if any, to address the presenting issues. The evaluation would include, when appropriate, a Child Protective Services abuse and neglect investigation. The WORK administering agency could, as a result of the evaluation, decide, for example, that the parent should be deferred from WORK participation or that he or she should receive intensive counseling.

37. JOB SEARCH

Specifications

(a) WORK program participants would generally be required to engage in job search at the conclusion of a WORK assignment or while otherwise awaiting a WORK assignment or enrollment to a WORK program activity serving as an alternative to a WORK assignment (see ALLOCATION OF WORK ASSIGNMENTS/INTERIM ACTIVITIES). The number of hours per week (up to a maximum of 35) and the duration of periods of required job search would be set by the State, consistent with regulations to be promulgated by the Secretary.

(b) The State could also require WORK participants to engage in job search while in a WORK assignment, provided that the combined hours of work and job search did not exceed an average of 40 per week and the requirement was consistent with regulations to be promulgated by the Secretary. The number of hours for job search would be the expected time to fulfill the particular job search requirement, i.e., if a WORK participant were expected to make 5 contacts per week, the number of hours of job search would be the estimated number of hours needed to make the contacts.

38. ASSESSING PARTICIPATION IN WORK BEYOND 2 YEARS

Specifications

(a) At the end of the two consecutive WORK assignments, participants who had not found unsubsidized work would be assessed on an individual basis, with three possible results:

1) Participants determined to be unable to work or to need additional training would be deferred from WORK or re-assigned to the JOBS program.

(2) Those determined to be unable to find work in the private sector either because there were no jobs available to match their skills or because they were incapable of working outside a sheltered environment would be allowed to remain in the WORK program for another assignment. Similar assessments would be conducted following each subsequent assignment.

(3) At State option, those who were employable and who lived in an area where there were jobs available to match their skills could be required to engage in intensive job search supervised by a job developer, who would be able to require participants to apply for appropriate job openings to determine if they were not making good faith efforts to find jobs. Failure to apply for appropriate job openings, noncooperation with the job developer or employer, or refusal to accept a private sector job opening without good cause would result in ineligibility for either WORK or AFDC benefits for 6 months. After 6 months of ineligibility, the person would immediately be given another individual work assessment and could again be denied eligibility for noncooperation or refusal to accept a job.

(b) The Departments of HHS and Labor will undertake a comprehensive national study at the end of the second year following implementation of the WORK program to measure the program's success in moving people into unsubsidized jobs and to evaluate the skill levels and barriers to work of the persons who have spent two years in the WORK program.

39. Secretary's Fund for States That Spend Beyond Their JOBS/WORK Allotments

Vision

Establish a fund that the Secretary would use to provide additional funding for States

that spend beyond their JOBS/WORK allotments and re-allotments. A sum of $300 million would be put into the fund initially. Thereafter, any unspent JOBS/WORK and At-Risk child care monies would contribute to the Fund.

Rationale

The Secretary's Fund gives the Department the ability to allocate overall JOBS/WORK program funds prudently and, at the same time, provide additional support to States that are aggressively implementing their programs and require more than what they receive under their standard allotment and re-allotments. Furthermore, under this program, States are given some lead time to they can anticipate the additional funding in their planning processes.

Specifications

(a) A fund of $300 million would be established for FY 96 for use by the Secretary to provide funding to States that needed additional dollars for JOBS (and subsequently JOBS or WORK) beyond what they were provided under the JOBS and WORK funding allocation formulas and subsequent reallocation procedures (see JOBS Funding and WORK Funding above).

(b) Twice each year (March 1 and September 1), States that obligated 95% of their JOBS and WORK allotments for the previous year and were expected to obligate their full JOBS and WORK allotments for the current year would qualify for additional funding from the Secretary's Fund for the next fiscal year.

(c) Thirty days later, States would be notified about final decisions on funding from the Secretary's Fund.

[Regulations would specify how the monies would be allocated among qualified States. If the total amount requested from the Fund were greater than what was available in the fund, monies would be allocated based on a procedure to be developed by the Secretary.]

(d) Monies from the fund would be treated just as the basic JOBS/WORK allotment and subject to the same Federal matching rates each year as were in effect for standard JOBS/WORK funding. The same between-program reallocation rules as those for the base JOBS/WORK funding would also be in effect. That is, States could move up to 10% of the combined JOBS and WORK monies from the Fund from one program to the other.

(e) The monies available in the Fund in FY 97 would come from two sources:

i. The original authorization level of $300 million, and

ii. Unspent State JOBS/WORK and At-Risk Child Care monies that had not been reallocated to the States (see JOBS Funding and WORK Funding above).

(f) Beginning in fiscal year 1998, the Secretary's Fund would be capped at $400 million (after all requests had been satisfied). Excess monies would revert to the Treasury.

(g) Beginning in FY 98, States could request monies for both JOBS and WORK. The monies from the Secretary's Fund that States added to their standard WORK program allocation would be included for purposes of determining the minimum number of WORK slots States must create.

Enhancing Responsibility and Opportunity for Non-custodial Parents

Vision

We need to make sure that all parents live up to their responsibilities. When people don't pay child support, their children suffer. Just as we expect more of mothers, we cannot let fathers just walk away. A number of programs show considerable promise in helping non-custodial parents to reconnect with their children and fulfill their responsibility to support them. Some programs help non-custodial parents do more by seeing that they get the skills they need to hold down a job. Other programs give non-custodial parents the opportunity to meet their child support obligations through work.

As there is not a long track record of research and evaluation on programs for non-custodial parents, it is envisioned that new programs should be modest and flexible, growing only as evaluation findings begin to identify the most effective strategies.

1. Training and Employment for Non-custodial Parents

Current Law

Section 482 of the Social Security Act (Title IV-F) permits the Secretary to fund demonstrations to provide services to non-custodial parents. The Secretary is limited as to the number of projects that can be funded under this provision. Evaluations are required. This provision, along with section 1115 of the Social Security Act, provide the authority for the Parents Fair Share Demonstrations currently underway.

Vision

States would be provided with the option of developing JOBS and/or work programs for the noncustodial parents of children who were receiving AFDC or have child support arrerages owed to the State from prior periods of AFDC receipt. States would be given the flexibility to develop different models of non-custodial parent programs which could best address the needs of children and parents in their state. These non-custodial parent programs would coordinate with other relevant efforts such as the public housing authorities' Resident Initiatives Programs, which make job and services available to non-custodial parents of children living in public housing. Evaluations would be required as appropriate for the options developed by the States.

Rationale

There is evidence that one of the primary reasons for non-support by some non-custodial parents is unemployment and underemployment. In a recent GAO report evidence was presented that about 29 percent of non-custodial fathers under age 30, many of whom were non-marital fathers, had income below the poverty level for one or no income at all. It will be difficult for these fathers to contribute much to the financial support of their children without additional basic education, work-readiness and job training which would enhance their earning capacity and job security.

Specifications

(a) A State would be able to spend up to 10 percent of its JOBS and WORK funding (allotment from the WORK capped entitlement) for training, work readiness and work opportunities for non-custodial parents. The State would have complete flexibility as to which of these funding streams would be tapped.

i. Parenting and peer support services offered in conjunction with other employment-related services would be eligible for FFP.

ii. A State could structure the service delivery in a variety of ways. For example, a State could provide services to non-custodial parents through the JOBS program and a non-custodial parent work program, or through a single combined program.

(b) A non-custodial parent would be eligible to participate (1) if his or her child were receiving AFDC or the custodial parent were in the WORK program at the time of referral or (2) if he or she were unemployed and had outstanding AFDC child support arrears. Paternity, if not already established, would have to be voluntarily acknowledged or otherwise established prior to participation in the program. In instances in which a child support award had not yet been established, the State could require, as a additional condition of eligibility, that the non-custodial parent cooperate in the establishment process. Arrears would not have to have accrued in order for non-custodial parents to be eligible to participate. For those parents with no identifiable income, participation could commence as part of the establishment or enforcement process.

(c) The state would be required to allow a non-custodial parent to complete the program activity or activities in which he was currently enrolled even if the children became ineligible for AFDC. However, if the non-custodial parent voluntarily left the program, were placed in a job, or were terminated from the program, he would have to be redetermined as eligible under the criteria in (b) above.

(d) States would not be required to provide all the same JOBS or WORK services to custodial and non-custodial parents, although they could choose to do so. Participation in the JOBS program would not be a prerequisite for participation in a non-custodial parent work program. The non-custodial parent's participation would not be linked to self-sufficiency requirements or to JOBS/WORK participation by the custodial parent.

(e) Payment of stipends for work would be required. Payment of training stipends would be allowed. All stipends would be eligible for FFP.

i. Stipends would have to be garnished for payment of current support.

ii. At State option, the (current) child support obligation could be suspended or reduced to the minimum while the non-custodial parent was participating in program activities which did not provide a stipend or wages sufficient to pay the amount of the current order.

iii. Participation in program activities could be credited against AFDC child support arrears owed the State.

iv. State-wideness requirements would not apply.

Indian tribes and Alaska Native organizations; JOBS, time limits WORK and child care

Provisions in this section apply specifically to Indian tribes and Alaska Native organizations.

JOBS and time limits

1. New Tribal JOBS Funding Formula

Current law

Under current law, funding for Indian tribes who operate a JOBS program is based on the number of adult Tribal members who receive AFDC who reside within the tribe's designated service area. Funding for Alaska Native organizations is based on the number of adult Alaska Natives who receive AFDC who reside within the boundaries of the region the organization represents. Indians living on the same reservation are currently subject to either the Tribal JOBS program or the State JOBS program depending on Tribal affiliation. Indians living in Alaska who are not Alaska Natives are subject to the State's JOBS program.

Tribal JOBS grantees currently receive funding based on a count of just under 31,000 adult Tribal members who receive AFDC. It is estimated that the adult AFDC population for all reservations (including those where a Tribal JOBS program does not exist) is 58,000.

Vision

All Native Americans living within the designated service area of an Indian tribe or Alaska Native organization would be subject to the tribal JOBS program regardless of tribal affiliation, if the tribe elects to run a JOBS program.

Rationale

Programs operated by the Department of Labor and the Bureau of Indian Affairs for Indians do not use Tribal affiliation to establish program funding or eligibility.

Specifications

(a) All Indians, living within the designated service area of an Indian tribe or within the boundaries of the region served by an Alaska Native organization which is a JOBS grantee, would be included in determining the amount of the grantee's JOBS funds.

(b) An Indian is one who meets the definition of Indian as given in section 4(d) of the Indian Self-Determination and Education Assistance Act.

2. New JOBS Application Period

Current Law

Under current law, Indian tribes and Alaska Native organizations had until April 13, 1989 to apply and until October 1, 1990 to begin operating a JOBS program. Indian tribes who did not meet these deadlines are prohibited from submitting applications to operate JOBS programs.

Vision

Indian tribes who did not meet the application deadline for JOBS would be given additional opportunity to do so.

Rationale

The window in which Indian tribes had to apply for JOBS was very limited. Other Federally funded formula grant programs available to Indian tribes do not have similar restrictions.

Specifications

(a) All federally recognized Indian tribes not operating a JOBS program may submit applications and plans to do so.

(b) There would be no new application deadline.

(c) New applications/plans would have to be submitted by July 1 of each year, with the effective date of approved plans to be October 1.

(d) An Indian tribe or Alaska Native organization who terminated or has its JOBS program terminates would be eligible to reapply for JOBS after a five-year period. Such Indian tribe or Alaska Native organization can reapply by July 1 of the fifth year by submitting an application and plan, with the effective date of an approved plan to be October. 1. (This is to prevent a Tribal grantee from frequently entering and leaving the program.)

(e) The current restriction that an Indian tribe must have a reservation to be eligible to operate a JOBS program would be retained.

3. Funding Set-Aside for Tribal JOBS Grantees

Current Law

Currently, funding for Indian tribes who operate a JOBS program is based on the number of adult Tribal members who receive AFDC who reside within the tribe's designated service area. Funding for Alaska Native organizations is based on the number of adult Alaska Natives who receive AFDC who reside within the boundaries of the region the organization represents. Yearly, Tribal grantees (includes Alaska Native organizations) and the State in which they are located must reach an agreement on the number of Tribal members who receive AFDC who reside with the grantee's designated service area. Any amount due a grantee by this agreement is deducted from the JOBS funding allocated to the State.

Although in some cases it does not cause problems, States and Indian tribes/Alaska Native organizations have found it difficult to come to agreement on the number of adult Tribal members who receive AFDC.

Vision

A set-aside of 2% out of total JOBS funds would be established to distribute to Indian tribes and Alaska Native organizations to provide JOBS.

The proposed percentage set-aside for Tribal JOBS grantees was determined based on two assumptions. First, that Indian tribes who do not currently operate a JOBS program would be given the opportunity to do so. Second, that all Indians, not just Tribal members, would determine Tribal funding. Using these assumptions, it is estimated that almost 2% (58,000 individuals) of the eligible adult AFDC population are Indians living on or near reservations or in areas served by Alaska Native organizations.

Rationale

Additional funding for the tribal JOBS grantees would make up for the lack of matching funds. States spent approximately $1,395 per JOBS participant from Federal and State matching funds in FY 93. Indian tribes spent approximately $935 per JOBS participant, all from federal funds as tribes are not required to provide matching funds.

Establishing a set-aside in lieu of the current funding formula would benefit both the Indian tribes, Alaska Native organizations and the States. States would not have any vested interest in the number of adult AFDC recipients who are Indians residing within a Tribal grantee's designated service area as the numbers would not have an impact on the States' JOBS allocations.

Funding for Indian tribes in the Child Care and Development Block Grant (CCDBG) program is a set-aside of the total allocated CCDBG funds.

Specifications

(a) Allocate a set aside of 2% of the total JOBS allocation to Indian tribes and Alaska Native organizations.

(b) Each grantee's share of the set aside would be determined by its percentage share of the entire adult Indian AFDC population which is living on or near reservations or within the boundaries of the region represented by an Alaska Native Organization.

(c) Provide for a periodic review of the percentage set-aside to ensure that it is based on an accurate percentage of adult AFDC recipients who are Indians living in the designated service area of a grantee. Provide for an automatic adjustment of the set-aside based on the results of this review.

(d) The remainder of the funding issued to an Indian tribe or Alaska Native organization who wishes to terminate or who have their programs terminated after the start of a fiscal year would revert to the State in which the Indian tribe or Alaska Native organization is located. This is because the State would then be responsible for serving the AFDC recipients who had been subject to the Tribal program.

(e) An Indian tribe or Alaska Native organization would be permitted to reallocate up to 10% of its JOBS allotment to its WORK program, and vise versa.

4. Carry-over of Funds

Current law

States, Indian tribes and Alaska Native organizations are currently prohibited from carrying over federal funds awarded in one fiscal year to the next fiscal year. All federal funds received in a fiscal year must be obligated by the end of the same fiscal year. Indian tribes and Alaska Native organizations have sometimes had to shut down their JOBS programs because new fiscal year funding is often not received until November. Unlike States which are in a position to use their own resources for operating JOBS pending the issuance of grant awards, Indian tribes and Alaska Native organizations do not have this luxury. States also have the advantage of the Cash Management Improvement Act (CMIA) which does not apply to Indian tribes and Alaska Native organizations. CMIA says that the Federal government must pay interest to States if States are forced to use State funds for something for which Federal funds are normally used. Thus, for example, States were issued a portion of their fiscal year 1994 JOBS funds a month before Indian tribes and Alaska Native organizations were issued any funds.

Without timely grant awards and without forward funding, Indian tribes and Alaska Native organizations either had to cease the program or use other limited tribal funds in the interim.

Vision

The JOBS programs operated by Indian tribes and Alaska Native organizations would not have to cease operation at the beginning of a fiscal year due to the non-timely issuance of new grant awards.

Rationale

The Job Training Partnership Act program under the Department of Labor has authority for forward funding. JTPA grantees are permitted to carry over a maximum of 20% of funds from one program year to the next.

Specifications

(a) Indian tribes and Alaska Native organizations who operate JOBS programs would be permitted to carry over no more than 20% of the funds awarded in one fiscal year into the next fiscal year.

5. JOBS Funds for Economic Development

Current law

Under current law, JOBS funds cannot be used to build/improve infrastructure which is so badly needed by Indian tribes and in areas served by Alaska Native organizations. JOBS funds cannot be combined with economic development funds to write proposals, make capital expenditures, etc. Indian tribes and Alaska Native organizations can apply for grants from ACF's Administration for Native Americans that if received can be used to support these activities. What Indian tribes and Alaska Native organizations can and what some do is to use JOBS funds to train individuals to work in economic development enterprises.

Vision

Allowing tribal JOBS grantees to denote a portion of their JOBS funds to economic development would give them additional opportunity to help their clients move towards self-sufficiency.

Rationale

Without the leveraging of Federal funds for economic development, there would be fewer employment opportunities for Native Americans.

Specifications

(a) Upon approval by the Secretary, Indian tribes and Alaska Native organizations

would be permitted to use no more than $5,000 or 10%, whichever is less, of their JOBS funds on economic development related projects.

(b) All economic development related projects that use JOBS funds must involve the training of JOBS participants for related jobs.

6. Deferrals

All provisions in the discussion on deferrals above apply except for the following.

Specifications

(a) Indian tribes and Alaska Native organizatons who operate a JOBS program would be responsible for the determination as to whether an AFDC recipient is to be deferred.

7. Extensions

Vision

Tribal JOBS grantees would be responsible for granting extensions to time limited AFDC benefits and would not necessarily be held to the same limitation on the granting of extensions as would be the States.

Rationale

Many reservations and areas served by Alaska Native organizations suffer from lower literacy rates and higher unemployment than most areas of the country.

Specifications

(a) Indian tribes and Alaska Native organizations who operate a JOBS program would be responsible for the determination as to whether extensions to time limited AFDC benefits should be granted.

WORK

1. Indian Tribes and Alaska Native Organizations to Operate Their Own WORK Programs

Current Law

Refer to this section under the general discussion of the WORK program.

Vision

Tribal AFDC recipients would be subject to the requirement to participate in JOBS just as they are now. They would also be subject to time limits.

Indian tribes and Alaska Native organizations would have the option to run JOBS. An Indian tribe or Alaska Native organization that operates JOBS would be required to operate a WORK program also. Indian tribes and Alaska Native organizations are responsible for determinations of JOBS-Prep status and extensions; however, there may be additional extensions because of unique tribal circumstances. Tribal members subject to tribal JOBS/WORK programs are excluded from any State program measures.

The Tribal WORK program would have to look different from the State WORK program because of the proposed funding formula. The portion of the WORK funding based on a diversion of AFDC grants would be difficult and complicated to accomplish because of the State's continued responsibility of AFDC funds and the need for extremely close coordination between the State and the Indian tribe or Alaska Native organization. Therefore, it is envisioned that the tribal WORK program would more closely resemble a Community Work Experience Program (CWEP) than a work-for-wages model (i.e., a tribal member would continue to receive cash assistance, but would be required to participate in a WORK activity). Indian tribes and Alaska Native organizations would be able to use WORK allocation to create job opportunities.

Rationale

Since the Indian tribes and Alaska Native organizations would have to be involved in the development of WORK assignments on the reservation, it follows that the Indian tribes and Alaska Native organizations be given the administration of the WORK program. Keeping the WORK program at the tribal level would allow for a continuum of activity. It also advances tribal self-determination and provides for a more holistic framework for addressing the needs of Native Americans.

Specifications

(a) Indian tribes and Alaska Native organizations which operate a JOBS program would apply to administer a WORK program. Any application would have to be approved by the Secretary.

(b) Indian tribes and Alaska Native organizations who do not want to operate a WORK program could not continue to operate a JOBS program.

(c) Funding for the tribal WORK program would be a percentage set-aside of the total WORK allocation.

(d) An Indian tribe or Alaska Native organization would be permitted to reallocate up to 10 percent of its JOBS allotment to its WORK program, and vice versa.

(e) An Indian tribe or Alaska Native organization would not be required to match Federal funds.

(f) The WORK program set forth in the application of an Indian tribe or Alaska Native organization under this part need not meet any requirement of the State WORK program that the Secretary determines is inappropriate with respect to a tribal WORK program.

(g) The Secretary shall develop appropriate data collection requirements.

(h) Appropriate performance measures would be developed.

Child Care

1. Allocate JOBS and Transitional Child Care Funds to Tribes and Alaska Native Organizations

Current Law

Under current law, States are the only entities eligible to administer title IV-A child care funds. Participants in Tribal JOBS programs who need child care have to be referred to the State IV-A agencies in order to receive needed child care.

Although data is not collected on the extent that title IV-A child care is used by Tribal JOBS participants, anecdotal information from Tribal JOBS directors seems to indicate that Tribal JOBS participants do not always get their child care needs taken care of through the State. Potential child care providers on reservations are often intimidated or unable to provide necessary information to the State in order to meet State requirements. Indian tribes and Alaska Native organizations that receive Child Care and Development Block Grant (CCDBG) funds sometimes use these funds to pay the costs of the child care to avoid dealing with the State. By using CCDBG funds to pay for the child care needed by Tribal JOBS participants, the Indian tribe or Alaska Native organization cannot use the funds to serve the child care needs of others who qualify.

Vision

Indian tribes and Alaska Native organizations would not have to rely the State IV-A agencies to guarantee the child care needed by Tribal JOBS participants and transitional child care. Funding the Tribal JOBS grantees to guarantee child care makes it easier for these entities to ensure that Tribal child care needs are met. Tribes would be provided funding for child care up to an amount equal to their JOBS/WORK allotment from title IV-A funds to address JOBS and transitional child care needs.

Rationale

Indian tribes and Alaska Native organizations who currently rely on the use of CCDBG to provide child care that is the responsibility of the State IV-A agency would be able to use CCDBG funds for their intended purpose once JOBS and transitional child care funds are available to them. The amount of child care funding available to the Indian tribes and Alaska Native organizations from title IV-A funds for JOBS and transitional child care and CCDBG should be sufficient to meet the child care needs without the additional funding provided by At-Risk Child Care. Therefore, it is not being recommended to fund the Indian tribes and Alaska Native organizations directly for the At-Risk Child Care program at this time. However, we are adding a provision to give the Secretary authority to determine that there is a need in the future and to allocate funds for At-risk Child Care to tribal programs at that time.

Specifications

(a) Upon an approved application, all Indian tribes and Alaska Native organizations that operate a JOBS/WORK program would be allowed to administer title IV-A JOBS and transitional child care funds.

(b) Tribes that elect to administer title IV-A JOBS and transitional child care funds would receive reimbursement from title IV-A funds for the actual amount spent on child care up to an amount equal to their combined JOBS and WORK allotment.

(c) Indian tribes and Alaska Native organizations would not be required to match Federal funds.

(d) The JOBS and transitional child care program set forth in the application of an Indian tribe or Alaska Native organization under this part need not meet any requirement of the JOBS and transitional child care programs that the Secretary determines is inappropriate with respect to such tribal JOBS and transitional child care program. The CCDBG health and safety standards, however, could not be waived.

(e) The Secretary shall develop appropriate data collection requirements.

(f) Appropriate performance measures would be developed.

Miscellaneous

1. Technical Assistance, Demonstrations and Evaluations

Current law

The three year contract awarded in 1990 to provide technical assistance to Tribal JOBS grantees expired last year. Tribal JOBS grantees are not eligible to operate demonstration projects. And evaluations of the Tribal JOBS programs have not been done.

Vision

To gain more thorough information about what makes a successful Tribal or Alaska Native JOBS program, evaluation is needed just as it is for State programs.

Rationale

Welfare reform will be a major force in Indian country. Whatever form welfare reform takes, Indian tribes and Alaska Native organizations will need ongoing technical assistance to understand and implement necessary changes to their JOBS programs.

Most Tribal (including areas served by Alaska Native organizations) environments are sufficiently different from State environments to warrant the involvement of a certain number of Indian tribes or Alaska Native organizations in demonstration projects.

A demonstration project may further allow an Indian tribe or Alaska Native organization to design and implement a program that tests innovative approaches that suits the unique circumstances of that Indian tribe, Alaska Native organization or of Indian country.

Specifications

(a) Indian tribes and Alaska Native organizations would be eligible to submit applications for demonstration projects related to welfare reform, such as combining JOBS and WORK into a block grant.

(b) Any contract awarded for the provision of technical assistance following the passage of welfare reform legislation must specify that Indian tribes and Alaska Native organizations receive a fair share of the technical assistance.

Provisions for Territories

Vision

As under current law, Territories would be required to operate a JOBS program. However, Territories would have the option to run a time-limited system or not. Should a Territory choose to implement a time-limited system, operation of a WORK program would be mandatory. The funding for operation of the WORK program would be available in an equivalent manner as for all States. Provisions which would remove At-Risk child care from the section 1108 cap (see IMPROVING GOVERNMENT ASSISTANCE section) would enable Territories to meet their expanded child care needs. Additionally, the Secretary would have flexibility to accommodate special circumstances faced by Territories.

Specifications

1. JOBS and Time Limits

(a) Funding level for Jobs would be at the enhanced match rate (described in JOBS Funding above). The JOBS allocation methodology would be the same as under current law.

(b) Time-limits would be an option. Territories can elect to implement a time-limited system but are not required to. If a Territory chooses to operate a time-limited system, it must specify a phase-in strategy in the plan, subject to Secretarial approval. Territories would also be required to specify a time-frame for implementing a time-limited system Territory-wide, subject to Secretarial approval.

(c) Territories would be subject to all participation rates and other performance standards if applicable. However, the Secretary shall have the authority to modify these and other requirements to accommodate special circumstances.

2. WORK Requirements

(a) If Territory elects to operate a time-limited system, a WORK program is mandatory. Territories would be required to specify an implementation plan, subject to Secretarial approval.

(b) WORK funding would be the same as JOBS—75 percent match for administrative costs from the national capped entitlement. The WORK allotment would be based on the same methodology as for other States: based on number of JOBS participants subject to time-limits and number of WORK registrants. WORK wages funding would come from Sec. 1108 capped monies (i.e., the AFDC benefits these recipients would have gotten anyway under a non-time-limited system).

(c) The Secretary shall have the authority to allow or require Territories to opt-out of a time-limited and WORK system. Territories can opt-in again after at least 5 years.

WAIVER PROVISIONS [TITLE II]

Current law

Section 1115 of the Social Security Act provides the Secretary authority to waive compliance with specified requirements of the Act that are judged likely to promote the objectives of the AFDC, child support, or Medicaid program. Demonstrations under waiver authority must be cost neutral to the federal government and must be rigorously evaluated.

Vision

The two-year time limit is part of the overall effort to shift the focus of the welfare system from disbursing funds to promoting self-sufficiency. It is imperative that we send a clear and consistent message about our expectations of the States and of welfare recipients. For that reason, the numbers of waivers granted to States to apply time limits other than 24 months will be limited to 5.

States will be able to conduct demonstrations regarding the WORK program. However, certain aspects of the WORK program will not be waivable so that recipients are afforded some protections against financial loss and loss of Medicaid and to ensure that the program does not result in displacement of other workers.

Specifications

1. Authority for demonstrations

(a) Allow the Secretary to authorize no more than five demonstrations with time limits other than 24 months. These time limits can be longer or shorter than 24 months provided that they are consistent with the overall goals of the JOBS and WORK programs.

2. Non-waivable WORK provisions;

(a) Each State shall have a WORK program.

(b) No person defined as eligible in for the WORK program shall be excluded from the WORK program.

(c) Participant families in a demonstration program, other than those subject to sanctions, shall not be made worse-off than a family of the same size, with no income, receiving AFDC benefits.

(d) Participants employed under any demonstration program shall be compensated for such employment at a rate no less than the highest of: the Federal minimum wage specified in section 6(a)(1) of the Fair Labor Standards Act of 1938; the rate specified by the appropriate State or local minimum wage law; the rate paid to employees or trainees of the same employer working the same length of time and performing the same type of work.

(e) In assigning participants in the demonstration program to any program activity: each assignment shall take into account the physical capacity, skills, experience, health and safety, family responsibilities, and place of residence of the participant; no participant shall be required, without his or her consent, to travel an unreasonable distance from his or her home or remain away from such home overnight; individuals shall not be discriminated against on the basis of race, sex, national origin, religion, age, or handicapping condition, and all participants will have such rights as are available under any applicable Federal, State, or local law prohibiting discrimination;

(f) Appropriate workers' compensation and tort claims protection shall be provided to participants on the same basis as they are provided to other individuals in the State in similar employment (as determined under regulations of the Secretary).

(g) No work assignment under the program shall result in a violation of any non-displacement, grievence, or consulation provisions specified in the JOBS, TIME LIMIT and WORK section.

(h) Funds available to carry out a demonstration program may not be used to assist, promote, or deter union organizing.

(i) The State shall establish and maintain a grievance procedure for resolving complaints by regular employees or their representatives that the work assignment of an individual under the program violates any of the prohibitions described in subsection (g). A decision of the State under such procedure may be appealed to the Secretary of Labor for investigation and such action as such Secretary may find necessary.

(j) Participants in the program and their families shall be categorically eligible for Medicaid.

MAKE WORK PAY [TITLE III, TITLE VII]

Background and vision

A crucial component of welfare reform that promotes work and independence is making work pay. In 1992, 30 percent of female heads of families with children worked but the family remained poor. Even full-time work can leave a family poor. Almost 11 percent of these female head who worked full-year/full-time were poor, 15 percent if they had children under six years of age. Simultaneously, the welfare system sets up a devastating array of barriers for people who receive assistance but want to work. It penalizes those who work by taking away benefits dollar for dollar; it poses arduous reporting requirements for those with earnings but still eligible to receive assistance; and it prevents saving for the future with a meager limit on assets. Moveover, working poor families often lack adequate health protection and face sizeable child care costs. Too often, parents may choose welfare instead of work in order to ensure that their children have health insurance and receive child care. If our goals are to encourage work and independence, to help families who are playing by the rules, and to reduce both poverty and welfare use, then work must pay better than welfare.

Working family tax credits are a major component of making work pay. The expansion of the Earned Income Tax Credit (EITC) passed in 1993 was a significant step toward making it possible for low-wage workers to support themselves and their families above poverty. When fully implemented, it will have the effect of making a $4.25 per hour job pay nearly $6.00 per hour for a parent with two or more children. Those families who are eligible for the maximum credit in 1996 obtain, in effect, a raise worth $1.62 per hour (or $3,000 per year), assuming full-year/full-time work. Full utilization and periodic distribution will maximize the effect of this pay raise for the work poor.

A critical step toward making work pay is ensuring that all Americans have health insurance coverage. Many recipients are trapped on welfare by their inability to find or keep jobs with health benefits that provide the security they need. And too often, poor, non-working families on welfare have better coverage than poor, working families. The President's health care reform plan will provide universal health care coverage, ensuring that no one will have to choose welfare instead of work to ensure that their children have health insurance. The EITC expansion, access to child care, and health care reform will support workers as they leave welfare to maintain their independence and self-sufficiency.

Another essential component for making work pay is affordable, accessible child care. In order for families, especially single-parent families, to be able to work or prepare themselves for work, they need dependable care for their children. In addition to ensuring child care for participants in the transitional assistance program and for those who transition off welfare, child care subsidies will be made available to low-income working families who have never been on welfare.

All regulatory provisions specified in this section shall be published within 1 year of enactment of this act, unless specified as otherwise.

A. CHILD CARE

Current Law and General Direction of Proposal

The Federal Government currently subsidizes child care for low-income families through a number of different programs. The programs have different eligibility rules and regulations, creating an extremely complicated system that is hard for both providers and recipients to navigate. The major existing programs include an entitlement to child care for AFDC recipients (title IV-A); transitional child care (TCC) (also entitlement) for up to a year for people who have left welfare for work; a capped entitlement ($300 million) for those the State determines to be at-risk of AFDC receipt (At-Risk); and the Child Care and Development Block Grant (CCDBG). There is also a disregard for child care costs available to working AFDC recipients. While these multiple programs provide valuable support for child care, legislative changes are needed to strengthen the welfare reform plan.

We are at this making changes only in the IV-A programs, which will remain as separate authorities. Any changes in the CCDBG will be made during its reauthorization in 1995.

Vision

Child care is critical to the success of welfare reform. It is essential to provide child care support for parents receiving assistance who will be required to participate in education, training, and employment. In addition, child care support for the working poor is also essential to "making work pay" and to enable parents to remain in the workforce. Our goals are to increase child care funding so that families have the access to the child care that they need, to simplify the administration of Federal child care programs to support the development State child care systems and to reduce the likelihood that parents and children will have to change providers as they move from funding stream to funding stream, and to assure that children are cared for in healthy and safe environments.

Rationale

We are proposing to increase available child care support significantly by extending the child care guarantee to JOBS Prep and WORK program participants and by increasing the funding for child care for working poor families through the At-Risk Child Care Program. To assure access to a variety of forms of child care, we would prohibit States from lowering their State-wide limits and mandate that States supplement the disregard or provide a second, direct payment option to all parents. To improve consistency, we propose to have the IV-A child care programs follow the CCDBG requirements and allow States to place all Federal child care programs in one agency. Finally, to increase supply and improve quality in order to ensure that children are in healthy and safe environments, we propose to create a set-aside in the At-Risk program, to make licensing and monitoring of IV-A child care programs allowable for reimbursement as an administrative cost, to add IV-A requirements that States must assure that children do not have access to toxic substances and weapons and that all children must be immunized to meet the Public Health Service immunization standards.

We have selected the strategy of using the CCDBG standards and adding two new standards because we believe this truly represents the minimal requirements that can assure that children are protected. Many States obviously agree since they are already using the same standards for IV-A child care and CCDBG child care according to their State plans. In all cases except immunization, States will continue to establish their own standards; in the case of immunization, we do not believe requirements should vary from State to State. Using the CCDBG standards IV-A child care also strengthens the parental rights and opportunities; we will assure the parental choice of providers, provide parents information on options for care and payments of child care, and establish a system for parental complaints.

Specifications

1. Increased funding for child care

(a) Change the State match for the At-Risk Child Care Program, Section 402(i) to that consistent with the new, enhanced match for other IV-A services. Increase the amount authorized for the program to $300 million in 1995; $500 million in 1996; $580 million in 1997; $755 million in 1998; and $1 billion in 1999. The program will increase by $50 million each year thereafter until 2004 when it will increase by $100 million. Restrict eligibility to families not eligible for other IV-A child care programs. Reallocate unused At-Risk funds to States that have exceeded the required State match. If the State unemployment rate increases dramatically, the amount of the required match would be reduced. Similarly, the capped entitlement would be increased in the event of high unemployment nationwide. (See description in JOBS, TIME LIMITS AND WORK section)

(b) Change the State match for all other IV-A child care programs to the new, enhanced match for other IV-A services.

2. Program simplification/consistency issues

(a) Continued to have the IV-A child care funds flow to the IV-A agency but give the States the explicit option to contract to the lead CCDBG agency.

(b) Make the IV-A requirements for coordination, public involvement, and consultation in relationship to develop of the IV-A child care plan consistent with the requirements of the CCDBG statute.

(c) make the IV-A child care requirements consistent with CCDBG requirements with respect to parental rights and health and safety standards.

Add to the health and safety standards section:

(i) a requirement that the State must have requirements that children funded under the IV-A child care programs are immunized at levels specified by PHS. States will be given the flexibility to exclude certain children from this requirement.

(ii) a requirement that the State must have rules to assure that no child has access to toxic and illegal substances or weapons in the child care setting.

(d) Require that the State establish and periodically revise sliding fee scales that provide cost sharing by the families that receive Federal assistance for child care services. The fee scales will be the same for all programs (those used for CCDBG).

(e) Establish one requirement for State reporting to cover all programs, with core data elements to be defined by the Secretary.

3. Continuity of Care

(a) Give States the option under the IV-A programs to extend hours and weeks of care when reasonable to assure continuity of care for children.

4. Information to Parents

(a) Require that States must provide child care information to parents (use CCDBG language, adding "(including options for care and payment).")

5. Supply and Quality Issues

(a) Create a 10% set aside in the At-Risk program for supply building and quality improvements using language in CCDBG Section 658 (B) as allowable activities and adding as an allowable activity the expansion of the supply of care for infants and toddlers in low-income communities (as defined by the States).

(b) Establish explicitly that licensing and monitoring of IV-A funded child care providers is an allowable administrative cost, limited by a cap on expenditures of $15 million a year with State allocations set by a formula established by the Secretary.

6. Payment

(a) Prohibit States from lowering their statewide limits below those in effect on January 1, 1994.

(b) Retain the disregard, but mandate that States must offer working AFDC recipients the same level and forms of child care assistance as families in JOBS, TCC, and At-Risk Child Care. To accomplish this, States may either offer families the choice of the disregard or a direct payment for care or they may instead offer them a supplement to the disregard.

7. Clarification of the Guarantee

Guarantee child care for volunteers whose activities are approved as part of their employability plan under JOBS regardless of the availability of JOBS funding for those activities if the volunteer still undertakes the approved activities.

8. Territories

Allow territories to use WORK funds to pay for child care for WORK participants; continue to allow them to use JOBS funds to pay for child care for JOBS participants. Remove At-Risk Child Care from the territorial cap (See *Improving Government Assistance* section).

B. IMPROVING THE EITC [TITLE III]

1. Permitting publicly administered advanced EITC payment systems

Current law

The earned income tax credit (EITC) is a refundable tax credit available to a low-income filer who has earned income and whose adjusted gross income is below specific thresholds. Low income workers can claim the EITC while filing their tax returns at the end of the year. In addition, workers with children have the choice of obtaining a portion of the credit in advance through their employers, and claiming the balance of the credit upon filing their income returns. The amount of the advanced payment is calculated on the basis that taxpayers have only one qualifying child. The annual advanced EITC payment cannot exceed 60 percent of the maximum full-year EITC for a family with one child. In 1996, the maximum advance payment would be $1,223.

An employee choosing to receive a portion of the EITC in advance does so by filing a form W-5 with his or her employer. The employer is not required to verify employee's eligibility for the credit. Employers may be penalized for failing to comply with an employee's request for an advanced payment. The employer calculates the advanced EITC payment to which an employee is entitled based on the employee's wages and filing status and adds the appropriate amount to the employee's paycheck. The employer reduces its payment of employment and income taxes to the IRS by the aggregate amount of advanced EITC payments made during the period and reports this amount to the IRS on form 941.

At the end of the year, the employer notifies both the IRS and the employee of the actual amounts of advanced credits paid to the employee by filling in a box on the form W-2. When filing their income tax return at the end of the year, an employee is required to report advance payments, if any, of the EITC.

Vision

The proposal would promote use of advance payment option of the Earned Income Tax Credit (AEITC) by allowing selected public agencies to administer an advanced EITC payment for low income workers who voluntarily request it. For example, a State might choose to administer the AEITC through Food Stamp offices. States are not permitted to do this under current statute.

Rationale

Few programs are as effective in reaching the eligible population as the EITC. Despite the successes of the current program, the delivery of the EITC could be improved, particularly by enhancing the probability that the EITC will be claimed in advance throughout the year rather than as a year-end lump sum payment. In recent years, fewer than 1 percent of EITC claimants have received the credit through advance payments in their paychecks. The reasons for the low utilization rate are not fully known, though a recent GAO study found that many low-income taxpayers were unaware they could claim the credit in advance.

There may be other barriers to participation in the advance payment option. The GAO study also found that once informed, many workers stated that they would prefer to receive the EITC in a lump-sum payment. While some workers may simply prefer the forced savings aspects of receiving the credit in a lump sum, others may fear their employer's reaction if they ask for a government wage supplement to be added to their paycheck. Others may be fearful of owing the government a large sum of money at the end of the year because they received too large an amount in advance.

It is believed that welfare recipients, in particular, could benefit from receiving the credit at more regular intervals throughout the year. By receiving the credit as they earn wages, workers would observe the direct link between work effort and the EITC. Public agencies that deal directly with welfare recipients are uniquely advantaged to ensure that the AEITC option is used frequently and appropriately. They could explain to recipients who are about to transition from welfare to work how the AEITC will increase their income stream, making work a more rational option.

Allowing States the option provide advance payments of the EITC through public agencies (e.g., the offices which also provide food stamp benefits) could dramatically increase use of the AETIC among the working AFDC and ex-AFDC populations. A State could choose to target information about the EITC to welfare recipients or other individuals likely to become welfare recipients but who are currently outside the workforce. Individuals could have the choice of receiving the credit from a neutral third-party, without fear of notifying their employers of their eligibility for the EITC. Moreover, they could receive assistance in determining the appropriate amount of the EITC to claim in advance. States would also have the resources to verify eligibility for the credit better than employers, reducing the risk of erroneous payments being made to ineligible persons. This option would also allow for an evaluation of alternative delivery systems:

Specifications

(a) A State would have the option to propose to the Secretary of the Treasury a demonstration project pursuant to which advance payments of the EITC would be made to eligible residents through a State agency. Such agencies may include public assistance offices (AFDC and/or Food Stamps), Employment Service Offices, State finance and revenue agencies, and so forth. A State may choose only one agency to provide the advance credit.

(b) Approval by the Secretary of the Treasury of a State's proposal would be required in all cases. The Secretary of the Treasury would consult with the Secretary of Health and Human Services, the Secretary of Agriculture, and other Departmental Secretaries as appropriate if the State proposal includes coordination of EITC payments and other Federal benefits.

(c) Where appropriate, States may include in their proposals coordination of advance payments of the EITC and other Federal benefits (such as food stamps) through electronic benefit technology.

(d) State plans would be required to specify how payment of the EITC would be administered. States must include a detailed explanation of how eligibility for the credit would be determined and verified. States would also have to agree to provide recipients and the IRS with annual information reports in a timely fashion (typically by January 31 of the following year) showing the amounts of the EITC paid in advance. In addition, States would agree to provide the IRS with a listing by December 1st of the names and social security numbers of all person who participated in the state program at any time during the year (through October). States which failed to meet these reporting requirements would not be allowed to continue participation in the program.

(e) States would be allowed (but not required) to provide on an advanced basis up to 75 percent of the maximum amount of the credit for which the taxpayer is eligible and voluntarily requests.

(f) States would reduce payments of withholding taxes (for both income and payroll taxes) from their own employees by the amount of the advance payments made during the prior quarter.

(g) After the processing of income tax returns and matching of returns with information reports, the Secretary of the Treasury would be required to issue an annual report detailing the extent to which EITC claimants under State plans: (1) participated in the State plan; (2) filed a tax return; (3) reported accurately the amount of the advanced payments payable during the year by the state; and (4) repaid any overpayments of the advanced EITC within the prescribed time. The report would also contain an estimate of the amount of the excessive overpayments made by the state. Excessive overpayments would include advance payments not reported on the tax return and advance payments in excess of the EITC calculated on the basis of information reported to the IRS and causing taxpayers to owe outstanding amounts to the IRS.

(h) States would be required to repay the Federal government 50 percent of excessive advance payments subsequently not recaptured by the IRS made to State residents participating in the plan over a 4 percent threshold. The Secretary of the Treasury would demonstrate that due and diligent effort had been made to recapture these amounts through normal procedures. The 4 percent threshold applies to all advanced payments made by the State for a given tax year. States would become liable for the excessive amounts two years after the due date for the filing of a tax return.

(i) The Secretary of Treasury and the Secretary of Health and Human Services would jointly ensure that technical assistance is provided to States undertaking demonstration projects aimed at increasing participation in the EITC and EITC advanced payment programs. Sufficient training and adequate resources would be provided to both agencies pursuant to the provision of technical assistance to the States. The Secretaries of Treasury and HHS will see that such pilots are rigorously evaluated.

(j) The Secretary of Treasury, in consultation with the Secretary of HHS, shall enter into agreements with up to 4 States to pilot and assess the development and implement publicly administered advanced Earned Income Tax Credit initiatives. The Food Stamp population for the selected States can not equal more than 5% of the Food Stamp caseload nationwide.

(k) These agreements shall provide planning and implementation grants to States selected under this provision provided:

(i) that the Secretary of the Treasury also reviews and approves of the proposal submitted to the Secretary of DHHS;

(ii) that the selected States agree to share their findings and lessons with other interested States in a manner to be described by the Secretary.

(l) The total amount available under this provision for demonstration planning, organizing, and start-up is $1.4 million and no individual State can receive a grant in excess of $500,000. These demonstration programs shall not exceed three years in duration.

(m) AFDC and Food Stamp administrative funds can be used to pay for these provisions.

C. INCOME DISREGARDS [TITLE VII]

Current Law

Federal AFDC law requires that all income received by an AFDC recipient or applicant be counted against the AFDC grant except income that is explicitly excluded by definition or deduction. States are required by Federal law to disregard the following income: (1) for the first four months of earnings, working recipients are allowed a $90 work expense disregard, another $30 unspecified disregard, and one-third of remaining earnings are also disregarded; (2) the one-third disregard ends after four months; and (3) the unspecified $30 disregard ends after 12 months.

In addition, a child care expense disregard of $175 per child per month ($200 if the child is under 2) is permitted to be calculated after other disregard provisions have been applied. Currently, $50 in child-support is passed

through to families with established awards. States are now required to disregard the EITC in determining eligibility for and benefits under the AFDC program.

Vision

The provisions proposed under this component are designed to: (1) make the treatment of income simpler for both recipients and welfare officials to understand; (2) make work a more attractive, rational option for those who would continue to receive assistance; (3) remove the time sensitivity of current rules (i.e., eliminate provisions which change the rules governing the treatment of income depending on how long the person has worked); and (4) improve the economic well-being of those who need to combine work and welfare. (See IMPROVING GOVERNMENT ASSISTANCE for other earning disregard provisions)

Specifications

(a) Require States to disregard a minimum of $120 in earnings, indexed for inflation in rounded increments of $10.

(b) States will have the flexibility to establish their own disregard policies on earned income above this amount for both applicants and/or recipients and WORK program participants.

(c) States shall have flexibility in establishing fill-the-gap policies (i.e., States will have the flexibility to determine which types of income should be considered in developing a fill-the-gap policy, such as child support payments, stipends, etc, in addition to earned income).

(d) The AFDC $50 pass-through of child support payments will also be indexed for inflation in rounded $10 increments. States will have the flexibility to pass-through additional child support payments above this amount.

(e) The Federally established earnings disregard and the $50 child support pass-through will be indexed for inflation according to changes in the consumer price index (CPI). The disregards will be rounded to the nearest $10 increment.

The base period for the provisions to index the disregards shall be the calendar quarter ending September 30, 1996. The computation quarter for determining whether an adjustment is warranted shall be the calendar quarter ending September 30 for each year following 1996. For computation purposes, adjustments will be determined based on the un-rounded disregard amount. For example, if the unrounded adjusted value of the disregard is $125, then the rounded disregard is $130. To determine the value of the disregard in the subsequent year, the change in the CPI will be compared to $126, not $130. Adjustments to the disregards will become effective the following January 1.

(f) The effective date of these provisions shall be October 1, 1996.

Rationale

The proposal allows for greater State flexibility; States can determine the appropriate income disregard and can determine which sources of income to disregard. The indexing of the minimum amount will ensure that working recipients are afforded an adequate earned disregard in the future.

PERFORMANCE MEASURES PROPOSAL [TITLE IV]

Vision

The provisions described in this section initiate a process that will result in the development and implementation of a comprehensive performance measurement system which reflects and reinforces the emerging "culture" of the redesigned welfare system.

Current JOBS law

Under the SSA section 487 [FSA Section 203(b)] not later than October 1st, 1993, the Secretary of Health and Human Services shall:

(1) in consultation with the Secretary of Labor, representatives of organizations representing Governors, State and local program administrators, educators, State job training coordinating councils, community-based organizations, recipients, and other interested persons, develop performance standards with respect to the programs established pursuant to this part that are based, in part, on the results of the studies conducted under section 203(c) of such Act, and the initial State evaluations (if any) performed under section 486 of this Act; and

(2) submit his/her recommendations for performance standards developed under paragraph (1) to the appropriate committees of jurisdiction of Congress, which recommendations shall be made with respect to specific measurements of outcomes and be based on the degree of success which may be reasonably expected of States in helping individuals to increase earnings, achieve self-sufficiency, and reduce welfare dependency, and shall not be measured solely by levels of activity or participation. Performance standards developed under this subsection shall be reviewed periodically by the Secretary and modified to the extent necessary.

Current JOBS program performance measures

Participation rate for all AFDC recipients required to participate in JOBS (45 CFR 250.74(b) and 250.78)—For Fiscal Year 1994 the required participation rate is 15%. This is to ensure that a minimum proportion of the AFDC adult population is participating at a meaningful (significant) level.

Participation rate for AFDC-UP recipients (45 CFR 250.74(c)—For Fiscal Year 1994 the required participation rate is 40%. This is to ensure that a minimum proportion of the AFDC-UP principal wage earners or their spouses engage in work activities.

Target group expenditures (45 CFR 250.74(a)(1))—At least 55% of a State's JOBS expenditures must be spent on applicants and recipients who are members of the State's target populations as defined at 45 CFR 250.1. This is to ensure that the hard to serve are served by requiring that 55% of IV-F expenditures are spent on the target groups defined in the statute or, if different, approved as a part of the State's JOBS plan.

Current data reporting system

The JOBS Case Sample Reporting System (CSRS) was established to meet some of the reporting requirements mandated by section 487 of the Social Security Act. However, the data necessary to establish participation rates is collected through both CSRS and aggregate hard copy. Only data necessary to establish the numerator for overall participation is collected through CSRS. The population from which each State must draw its sample (or in lieu of drawing a sample, the State may submit the entire population each month) is defined as the number of JOBS participants that were engaged in at least one hour of activity in an approved JOBS program component during the sample month. In addition to JOBS program data, a limited amount of demographic data and child care data is also required to be submitted.

Current QC law

Under section 408 of the Social Security Act, States are required to operate a quality control system in order to ensure the accuracy of payments in the AFDC program. States operate the system in accordance with time schedules, sampling methodologies, and review procedures prescribed by the Secretary. The law defines: what constitutes a payment error; how error rates and disallowances are calculated; the method for adjusting State matching payments; and the administrative and judicial reviews available to States subject to disallowances because of error rates in excess of the national standard (i.e., the national error rate for each year).

The AFDC–QC system functions primarily as a monitoring/auditing system. Its primary purpose is to establish the correctness with which payments are made to AFDC cases in each State. The AFDC–QC system also obtains the data necessary to produce the publication entitled "Characteristics and Financial Circumstances of AFDC Recipients." The AFDC–QC system is not used to meet any of the reporting requirements for the AFDC program. Subsequent to the establishment of this system, which is a subsystem of the National Integrated Quality Control System (NIQCS), OMB required additional AFDC data be collected to replace the biennial survey of AFDC families that had been in place through 1979.

Vision

One objective of welfare reform is to transform the "culture" of the welfare system; from an institutional system whose primary mission is to ensure that poor children have a minimal level of economic resources to a system that focuses equal attention on the task of integrating their adult caretakers into the economic and social mainstream of society. We envision an outcome-based performance measurement system that consists of a limited set of broad measures and focuses State efforts on the goals of the transitional support system—helping recipients become self-sufficient, reducing dependency, and moving recipients into work. The system would be developed and implemented over time, as specified in statute. Interested parties will be included in the process for determining outcome-based performance measures and standards.

Until a system incorporating outcome-based standards can be put in place, State performance will be measured against service delivery measures as specified in statute. These service delivery standards would be used to monitor program implementation and operations, provide incentives for timely implementation, and ensure that States were providing services needed to convert welfare into a transitional support system. The current targeting and participation standards would be eliminated (see draft specifications on JOBS, TIME LIMITS, AND WORK). The new service delivery measure for JOBS would ensure that a substantial portion of such cases are being serviced on an ongoing basis. As soon as WORK program requirements begin to take effect (i.e., two years after the effective date of the start of the phase-in), States would be subject to a performance standard under the WORK program. Until automated systems are operational and reliable, State performance vis-a-vis these service delivery measures would be based on information gathered through the modified QC system.

Within a specified time period after enactment of this bill, the Secretary will develop a broader system of standards which incorporates measures addressing the States' success in moving clients toward self-sufficiency and reducing their average tenure on welfare. All accompanying regulations to this section shall be published within 12 months of the enactment of this act, unless an effective date is otherwise specified.

Rationale

The standards against which systems performance are judged must reflect the emerging mission or goal of the reformed system. The existing Quality Control (QC) system may actually create counterproductive incentives for States attempting to cope with this emerging institutional environment. QC focuses on how well the income support function is done to the exclusion of other systems goals. This directly shapes the atmosphere of and feel within welfare agencies; how personnel are selected and trained, how administrative processes are organized, and the basis for allocating organizational rewards.

It is a simple reality that the management and technological demands which emerge from a system designed to change how people function are more complex than those for an income support system. Strategies that judge performance solely by inputs or effort will no longer be adequate. The new system eventually must be judged by what is accomplished rather than how it is accomplished. At the same time, the challenges of transforming organizational cultures cannot be ignored; we must remain cognizant of the implementation and operational challenges all levels of government will confront in moving to the new system.

In response to the demands imposed by substantive organizational change, the "official" focus of the QC system will be revised to include program outcomes in addition to payment accuracy. The QC system should reflect the new mission of the system without jeopardizing the integrity of the program as it is currently understood. This can be achieved through the development of performance measures and standards that reflect the degree to which the policy is implemented as intended and which eventually focus on results, while ensuring that the residual income support functions are administered competently. The goal is that payment accuracy and other designated performance standards be given equal priority by the welfare agency.

Provisions 1 through 3 generally deal with requirements and procedures for establishing performance outcomes; provisions 4 and 5 deal with developing service delivery measures and standards to assess whether the program is being implemented and operated as intended; and provision 6 provides the necessary authority to modify the QC system to carry out the monitoring functions specified in the Act.

Specifications

1. *Establishing an Outcome-Based Performance Standards System*

Vision

Part 1: This provision provides general authority to the Secretary of DHHS to establish an outcome-based performance standards system.

The vision governing welfare reform is consistent with the theme of "reinventing government." Ultimately, this means less federal prescription, greater local flexibility and responsibility, and the measurement of success by outcomes and not inputs or effort.

Rationale

These provisions establish and reinforce the goal that State performance eventually will be judged by the results they achieve and not the way they achieve those results. This means keeping a focus on the goals of reform; moving clients toward self-sufficiency and independence while ensuring the overall well-being of children and their families.

Specifications

(a) In accordance with the effective dates specified, in order to assess State performance, the Secretary shall enact an outcome-based performance standards systems that will measure the extent to which the program helps participants improve their self-sufficiency, their independence from welfare, their labor market participation, and the economic well-being of families with children. As specified below, the Secretary shall first develop outcome-based performance measures and then shall take steps to set expected standards of performance with respect to those measures. The system will also include performance standards for measuring the extent to which individuals are served by the transitional support system (i.e., service delivery standards).

(b) The current quality control system shall be revised to reflect the new performance standards system (*see section on Quality Control*).

(c) The Secretary shall publish annually State-level data indicating State performance under such a system.

(d) Amend Sec. 487 (b) to read: The Secretary may require States to gather such information and perform such monitoring functions as are appropriate to assist in the development of such a performance measurement system and shall include in regulations provisions establishing uniform reporting requirements for such information.

(e) In adopting performance standards the Secretary shall use appropriate methods for obtaining data as necessary, which may include access to earnings records, State employment security records, State Unemployment Insurance records, and records collected under the Federal Insurance Contributions Act (chapter 21 of the Internal Revenue Code of 1986); drawing reliable statistical samples and revising QC reviews of AFDC payment and case information; and using appropriate safeguards to protect the confidentiality of the information obtained.

(f) The Secretary shall, in consultation with appropriate interested parties, review and modify the performance measures and standards, and other components of the performance measures system periodically as appropriate.

2. Developing an Outcome-Based Performance Measurement System

Vision

Part 2: This provision requires the Secretary to propose a specific set of intermediate outcome measures and establishes a process and timetable for doing such.

Before outcome-based standards are established, a set of outcome-based measures will be put in place. (Note: a measure is merely an aspect of the program on which data is collected; a standard is a specific level of performance that is expected of States of agencies with respect to that measure.)

These provisions are viewed as the first step toward developing a true outcome-based performance measurement system and recognize complementary work taking place in other agencies.

Rationale

Recognizing the complexity of this task, this legislation incorporates a prudent strategy that moves forcefully, yet with reasonable caution in the direction of developing an outcome-based performance system.

Specifications

(a) By April 1, 1996, for the purposes of enacting a performance measurement system, the Secretary will develop recommendations for specific outcome-based performance measures (with proposed definitions and data collection methodologies) and shall solicit comments from the Congress, Secretaries of Labor, Education, and other Departments, representatives of organizations representing Governors, State and local program administrators, educators, State job training coordinating councils, community-based organizations, recipients, and other interested persons (hereinafter referred to as interested parties).

(b) The recommendations shall include the percentage of the caseload who reach the 2-year time-limit and may include but shall not be limited to measures which examine:

(i) factors used in section 106 of the Job Training Partnership Act and any subsequent amendments such as placement and retention in unsubsidized employment and a reduction in welfare dependency; and,

(ii) other factors as deemed appropriate by the Secretary.

(c) Based on comments from the interested parties, the Secretary will finalize the measures and will publish them in the Federal Register by October 1, 1996.

3. Implementing an Outcome-Based Performance Measurement System

Vision

Part 3: This provision requires the Secretary to set standards of performance for States to meet with respect to the measures developed under prior provisions and sets some procedural guidelines for setting those standards.

Knowing what we want to accomplish is different from setting concrete expectations for States about what they ought to accomplish. The standards should be set carefully, with adequate time to obtain input from stakeholders and interested parties and to fully access the potential impact of the standards.

Rationale

It is important to provide sufficient time to think through an appropriate set of measures with relevant parties and to carefully consider what kind of realistic standards might be set with respect to those measures. The legislation sets a time period to consider important measurement issues and what consequences should be set for failure to meet established standards.

Specifications

(a) By April 1, 1998, for the purposes of enacting outcome-based standards, the Secretary, in consultation with interested parties, shall present recommendations for performance standards based on the performance measure information (as specified above) and other appropriate information.

(b) Based on comments from the interested parties, the Secretary will finalize the standards and will publish them in the Federal Register by October 1, 1998.

(c) The Secretary shall amend the regulations for this Act to establish the penalties and incentives for the proposed standards by October 1, 1998. These regulations shall specify that the incentives may be paid from penalty payments collected and available funds in the Secretary's Fund, such that the result of such payments shall be cost-neutral.

4. Service Delivery Standards

Vision

Part 4: This provision requires that certain standards be set to determine how well States are implementing key aspects of the new system and sets rewards and penalties based on those standards.

To ensure that welfare systems are operating the program as intended, the new performance system will provide for awards and

penalties for State performance through adjustments to the State's claims for federal matching funds on AFDC payments and on JOBS service dollars. These measures are designed to provide positive and negative incentives to States to serve recipients under the new transitional system and to monitor program operations. States would be subject to financial incentives for a monthly participation rate in JOBS and a participation rate in WORK. In addition, the caps on JOBS extensions and deferral assignments and State accuracy in keeping of the two-year clock are considered service delivery standards.

Rationale

Because major changes to the welfare system are being proposed, it is critical that the extent to which the intent of the law is being realized be monitored carefully. Measuring critical aspects of the new program will provide necessary feedback upon which to judge progress toward changing the "culture" of the welfare system, while the proposed set of incentives and penalties will keep States focused on the required changes.

Specifications

(a) Upon enactment of this act, the Secretary shall implement service delivery measures for purposes of accountability and compliance.

(b) States shall be subject to service delivery standards upon the effective date of the new JOBS program. States shall begin reporting and validating data for service delivery measures no later than 12 months following the publication of the JOBS/WORK regulations in a manner to be prescribed by the Secretary.

(c) The service delivery standards apply only to the phased-in mandatory population that is subject to the time limit (including those additional groups a State can opt to include in the phase-in group).

(d) Monthly Participation Rate in JOBS: Similar to current law, States are expected to meet a monthly participation rate. Using a computation period of each month in a fiscal year (i.e., over a 12 month period), the State's monthly participation rate shall be expressed by a percentage, and calculated as follows:

(i) The denominator consists of the average monthly number of individuals who are mandatory for JOBS (i.e., excluding those in the deferral status).

(ii) The numerator consists of the average monthly number of individuals who are mandatory for JOBS (i.e, excluding those in the deferral system) who participate in an activity, are employed and meet the minimum work standard (and remain on aid), or are in the sanctioning process as defined by JOBS program rules). The definition of participation for the purposes of calculating the monthly participation rate will be determined in regulation.

(e) The performance standard for the JOBS monthly participation rate is set at 50 percent, with a −5/+5 tolerance level, with financial penalties if the standard is not met and financial incentives if the standard is exceeded. For the proportion of caseload below the standard (45%), a 25 percent reduction in the FFP for their AFDC benefits will be levied for the annual period covered by the rate, using the average AFDC benefit paid in the State to calculate the amount of the penalty. (This penalty is not a 25 percentage point reduction. Rather, the penalty will reduce the FFP from 50 percent to 37.5 percent, not from 50 percent to 25 percent.) There will be no penalties or additional payments for those States with participation rates between 45 and 55 percent. Penalties will not be assessed in the first year of program operation.

(f) If a State exceeds the JOBS monthly participation rate (55%) in a fiscal year, the State will be entitled to receive an additional payment (without the requirement of any additional nonfederal share) for use in carrying out its JOBS program. The payments will be made from penalties collected from State performance on other service delivery measures and from the Secretary's Fund. The Secretary shall determine the amount of the payments.

(g) WORK Program Participation Rate: To ensure that individuals who reach the time limit are assigned to work slots, States will be expected to meet a WORK participation standard. Financial penalties are applied if the standard is not met. The WORK performance measure would take effect two years after the effective date of this legislation (sees *JOBS, Time Limits, and Work section*). To meet this standard, States are required to meet either:

(i) Case 1: The number required so that 80 percent of those who are registered for the WORK program are assigned to a WORK slot or are in other defined statutes (as explained below). Using a computation period of each month in a fiscal year (i.e. over a 12 month period), the WORK participation rate is expressed as a percentage and is calculated as follows: (1) The denominator consists of two parts; first, the average monthly number of individuals who are registered for the WORK program (i.e., excluding those in the deferral status); and second, the average monthly number of individuals who left the WORK program within the last three months and are working in an unsubsidized job and are not eligible for an earnings supplement. (2) The numerator consists of the average monthly number of individuals who are assigned to a WORK slot, are in the sanctioning process as defined under the WORK program rules, are participating in a WORK job search activity between WORK assignments (for a period of up to three months), or, who left the WORK program within the last three months and are working in an unsubsidized job and are not eligible for an earnings supplement. The exact definition of the rate will be specified in regulation. Or,

(ii) Case 2: The number required so that total number of WORK slots the State is required to create, based on their funding allocation, are filled by individuals assigned to a WORK slot. Under this option the number of WORK slots the State is required to create will be determined by dividing the annual capped WORK allocation by a figure representing the cost per work slot, with the latter to be determined by the Secretary.

(h) For the proportion of caseload below the applicable standard, a 25 percent reduction in the FFP for their AFDC benefits will be levied for the annual period covered by the rate, using the average AFDC benefit level paid in the State to determine the amount of the penalty. Penalties will not be assessed in the first year of program operation. (This penalty is not a 25 percentage point reduction. Rather, the penalty will reduce the FFP from 50 percent to 37.5 percent, not from 50 percent to 25 percent.)

(i) States will be required to place individuals who have most recently hit the time-limit into WORK slots prior to other WORK participants (e.g., those who have already completed a slot and are awaiting re-assignment).

(j) Caps on Deferrals and JOBS Extensions: For any cases above the cap for deferrals and/or above the cap for JOBS extensions, a 25 percent reduction in the FFP for their AFDC benefits will be levied, using the average AFDC benefit level paid in the State to determine the amount of the penalty. Penalties will not be assessed in the first year of program operation. The penalties do not apply if the State submitted a proposal to the Secretary to raise the cap and the Secretary granted such a waiver. (This penalty is not a 25 percentage point reduction. Rather, the penalty will reduce the FFP from 50 percent to 37.5 percent, not from 50 percent to 25 percent.) (see also JOBS, Time Limits, and WORK section)

(k) As appropriate, the Secretary may require States to report other data elements related to the provision of JOBS and WORK services, such as the provision on teen case management services. Such additional reporting requirements will be specified in regulation no later than 12 months following the enactment of this act.

(l) States are not eligible for adding payments for exceeding the JOBS monthly participation rate if the Secretary determines:

(i) the accuracy of a State's time-clock fails the threshold standards for time-clock accuracy, as defined subsequently in regulations; and/or,

(ii) other required data on the JOBS and WORK program reported by a State that fails the threshold standards for data quality, as defined subsequently in regulations.

5. Client Feedback

Vision

Part 5: This provision requires that States establish a process for collecting client feedback on their experience in the program as a method for improving program operations.

There has been little study in the past of client perceptions of the services provided through the welfare department. However, similar to the way customers' reactions are important to the business community, understanding and managing client feedback on the services they receive provide important information on areas where program performance could improve. Additionally, it will be important to establish mechanisms to ensure feedback on the quality of services provided by public, nonprofit, and private agencies.

Rationale

One aspect of reinventing government is to make public systems client- or market-driven. In a time-limited cash assistance program, providing participants with quality services and opportunities through which to enhance their human capital and improve their chances in the labor market seems essential. Obtaining feedback directly from the "customers" is one way of helping program managers ensure that they provide participants what is needed.

Specifications

(a) Each State shall establish methods for obtaining, on a regular basis, information from individuals and employers who have received services through the JOBS and/or WORK program regarding the effectiveness and quality of such services. Such methods may include the use of surveys, interviews, and focus groups.

(b) Each State agency shall analyze the customer service information on a regular basis and provide a summary of such information for use in improving the administration of the programs.

6. Expanded Mission for Quality Control System

Vision

Part 6: This provision provides the Secretary with the authority to review and modify the Quality Control system as needed and sets up some procedural guidelines for identifying the needed changes and making those changes.

The following language allows the Secretary to build on the current payment accuracy Quality Control system to incorporate a broader system focused on the performance standards established in statute or by regulation and to ensure the efficient and effective operation of the JOBS/WORK/Time Limited Assistance program. Payment accuracy will be retained but as one element in a broad performance measurement role for the QC system.

Rationale

Operating a performance driven accountability system requires resources. Until the new system is fully developed, it will be difficult to estimate what those resource requirements will be. Some of those resources must come from the existing QC system, necessitating changes in that system. The Secretary must have authority to make those changes in a way that does not sacrifice the ability to ensure the integrity and accuracy of income maintenance payments.

Specifications

(a) The Secretary shall build on the current QC system to establish procedures for determining, with respect to each State, the extent to which any and all performance standards established by statute or regulation are being met. The Secretary shall modify the scope of the current QC system as deemed necessary to accommodate the review of the additional data elements and new performance measures and standards and shall report the modifications to Congress.

(b) To this end, the Social Security Act will be amended to expand the purpose of the QC system to include: improving the accuracy of benefit and wage payments in the AFDC and WORK program, assessing the quality of State-reported data, ensuring the accuracy of State reporting of JOBS/WORK data required under this act, ensuring that other performance standards are met, and fulfilling other appropriate functions of a performance measurement system.

(c) The Secretary shall designate additional data elements to be collected in a QC review sample to fulfill the needs of a performance measures system (pursuant to section 487 as amended under this part), shall amend case sampling plans and data collection procedures as deemed necessary to make statistically valid estimates of program performance identified elsewhere in this section, and may redefine what is counted as an erroneous payment in the QC system.

(d) States shall conduct periodic, internal audits of their JOBS and WORK processes to ensure the accuracy of reported data and annual audits to establish accuracy rates. The Federal government would specify the minimum sample sizes to achieve 90 or 95 percent confidence at the lower limit (the method generally used by OIG). States would also be permitted to use current QC resources to conduct special studies to test and improve the current system.

(e) The Secretary shall, after consulting with the States and securing input from knowledgeable sources, publish regulations regarding changes in the design and administration of existing QC functions as well as enhancements to that system. These proposed changes will be published no later than 6 months after enactment of this Bill.

INFORMATION SYSTEMS AND INFRASTRUCTURE

[TITLE IV]

Current law and background

In the late 1970s, the Federal government decided to improve the administration of welfare programs through the use of computerized information systems. The Congress enacted PL 96-265 and subsequent legislation to grant incentive funding to encourage the development of automated systems.

In 1981, the AFDC program released the Family Assistance Management Information System (FAMIS) specifications and updated them in 1983. In 1988, the Food Stamp Program (FSP) released similar guidelines in regulations and updated them in 1992. Incentive funding is also available for statewide, Child Support Enforcement (CSE) systems.

A recent GAO report indicated that, in the previous 10 years the Federal government had spent nearly $900 million in the development and operation of AFDC and FSP automated systems alone. In the Omnibus Budget Reconciliation Act of 1993, the Congress repealed enhanced funding for AFDC and FSP effective April 1, 1994.

An emerging priority of Federal funding agencies has been to encourage States to implement more cost-effective systems which integrate service delivery at the local level. This has enabled many States to begin using combined application forms for multiple programs (including AFDC, FSP, and Medicaid) and a combined interview to determine eligibility for the various programs. Consequently, with systems support, a single eligibility worker can process an application for several programs at the same time.

Another priority is the development of electronic transfer of funds and Electronic Benefit Transfer (EBT) technology to delivery benefits. This technology allows recipients to use a debit card, similar to a bank card, at retail food stores and automated teller machines (ATMs) to access their benefit accounts. Plans to expand the use of EBT systems are mentioned in the Vice President's National Performance Review.

Under current law and regulations, States and the Federal government have developed elaborate computer management information systems for financial management and benefit delivery, program operations, and quality control. Some programs, such as Child Support Enforcement, are in the midst of large-scale (and long-term) computer system change, while others, such as AFDC (with its FAMIS systems), are nearing completion of a development cycle.

Both FAMIS and Child Support Enforcement Systems (CSES) have been funded under an enhanced funding (90 percent) match. Partly as a result of this incentive funding, many States have integrated, automated, income maintenance systems which assist caseworkers in determining eligibility, maintaining and tracking case status, and reporting management information to the State and Federal governments.

Other essential welfare programs, namely JOBS and child care, have limited and fragmented automated systems. For the most part, States could fund parts of these systems at the 50 percent match rate. States report that administrative funds have not been available to fully automate and interface JOBS and Child Care with other programs within the State.

Many of these systems have serious limitations: limited flexibility, lack of interactive access, limited ability to exchange data electronically, etc. Even the most sophisticated systems fall short of the goal of allowing State agencies to use technology to:

Eliminate the need for clients to access different entry points before they receive services;

Eliminate the need for agency workers (and clients) to encounter and understand a wide variety of complex rules and procedures;

Share fully computer data with programs within the State and among States; and

Provide the kind of case tracking and management that will be needed for a time-limited welfare system.

Vision and Rationale

Computer and information technology solutions will support welfare reform by providing new automated screening and intake processes, eligibility decision-making tools, and benefit delivery techniques. Application of modern technologies such as expert systems, relational databases, voice recognition units, and high performance computer networks, will help empower families and individuals seeking assistance. At the same time, these technologies will assist in reducing fraud and abuse so that Federal and State benefits are available to those who are in need.

State-level Systems and National Clearinghouse

To achieve this vision, we are proposing an information infrastructure which allows, at the State level, the integration and interfacing of multiple systems, for example, AFDC, food stamps, work programs, child care, Child Support Enforcement (CSE), and others. The Federal Government, in partnership with the States, or groups of States in partnership with the Federal Government, may develop model systems that perform these functions or subsets of these functions.

To support the broader information needs, the new information infrastructure needs to include, on the one hand, a national data "clearinghouse" to coordinate data exchange and for other purposes and, on the other, enhanced State and local information processing systems to improve management and delivery of services.

Enhanced State Systems. At the State and local level, the systems infrastructure would include automated subsystems for intake, eligibility determination, assessment, and referral; case management and service delivery; and benefit, payment, and reporting. The infrastructure would consist of new systems components integrated with existing systems or with somewhat enhanced existing systems. Variations in existing automated systems would make it unreasonable to try to standardize these systems. Rather, we need linkages that allow for the accurate exchange of data between systems.

By linking the various programs and systems, States would be able to provide integrated services and/or benefits to families and individuals "at-risk" of needing financial assistance, those receiving assistance, and those transitioning from public assistance program to self-sufficiency. As part of this automation effort, enhanced funding will be offered as an incentive for States to develop and implement statewide, automated systems for JOBS/WORK management and monitoring, and to enable seamless services for child care. Such an automated system infrastructure would enable States to provide greater support to families who might otherwise dissolve, as well as to parents who may, because of unmet needs, be forced to terminate employment or training opportunities.

In addition, as Electronic Benefit Transfer (EBT) and Electronic Funds Transfer (EFT) become more widespread, they would be used for other programs, such as child care reporting and payments, and reporting of JOBS participation. As an example, a JOBS participant could be required to self-report either through a touch-tone phone that connects to a Voice Recognition Unit (VRU) or through the use of plastic card technology.

Enhanced Detection of Fraud and Abuse. For detection and analysis of fraud and abuse, computer matching of records and sharing of data among State programs and at a national level would be increased. For example, the child support information needs for establishing an order or in review and modification would be extremely valuable for access by the AFDC agency, after the agency has performed prospective eligibility determinations, but before benefits are granted. In addition, the National Clearinghouse would be extremely helpful in ensuring that an individual does not obtain AFDC beyond the time limit, does not receive benefits in more than one location or for children claimed by another family, or fails to report employment.

Data and Reporting on Program Operations and Clients. Current methods for data gathering and reporting requirements on program operations and clients could be reduced. Many of the current data and reporting requirements will be superseded by new ones, but in any case, many current items are of low data quality or of little interest. Current requirements will be re-examined.

National Clearinghouse. The National Clearinghouse will be a collection of abbreviated case and other data that "points" to where detailed case data resides and provides the minimum information for implementing key program features. Described in detail under the Child Support Enforcement section, this Clearinghouse will not be a Federal data system that performs individual case activities. While information will be coming to and from the Clearinghouse, it will contain limited data—States will retain overall processing responsibility.

The Clearinghouse will maintain at least the following data registries:

The National New Hire Registry will maintain employment data for individuals, including new hire information.

The National Locate Registry will enhance and subsume the current Federal Parent Locator Service (FPLS) functions.

The National Child Support Registry will contain data on all non-custodial parents who have support orders.

The National Welfare Receipt Registry will contain data to operate a time-limited assistance program, such as the beginning and ending dates of welfare receipt, participation in various work programs, and the name of the State providing benefits.

A. NATIONAL WELFARE RECEIPT REGISTRY

(a) As part of the National Clearinghouse, the Secretary of DHHS will establish and operate a National Welfare Receipt Registry to assist in operating a national time-limited assistance "clock".

(b) The Clearinghouse, described more fully in the section on Information Systems for the Child Support Enforcement Program, will contain four Registries including the National Welfare Receipt Registry. At a minimum, the Welfare Receipt Registry will assist States in calculating the remaining months an individual may be eligible to receive benefits and reduce fraud and abuse.

(c) The National Welfare Receipt Registry will be maintained by obtaining electronically from each State IV-A agency information on individuals receiving benefits. Upon request, the Clearinghouse will send electronically information to the State agency.

(d) The information to be exchanged is as follows:

(i) Information to be sent to the Clearinghouse includes identification information, such as the names and Social Security Numbers of members of the family; the dates an individual went on and off assistance; participation information for AFDC, JOBS and WORK programs; information on extensions of time-limits and sanctions for non-compliance for these and other programs; as well as other information as determined necessary by the secretary.

(ii) Information to be received from the Clearinghouse includes whether the applicant has been reported to have received assistance and, if so, when and in which State(s); whether the Social Security Numbers supplied are valid; whether the applicant is contained in the New Hire Registry as being recently employed; and other information as determined by the Secretary.

(e) Information Discrepancies: If an information discrepancy exists between the information the client presents to the State agency and the information in the Clearinghouse, the Secretary will assist in the resolution by verifying that the data contained in the Registry reflects the information contained in the State agency records where the individual has previous assistance, correcting the Clearinghouse information if necessary, and reporting the updated information to the requesting State.

(f) The States involved must take appropriate actions to resolve the discrepancy in accordance with normal due process requirements and must submit corrected information to the Clearinghouse when the discrepancy is resolved.

B. STATE TRANSITIONAL ASSISTANCE SUPPORT INFORMATION SYSTEM

(a) The State agency, in order to assist in the administration of time-limited welfare, will establish and operate a statewide, automated, Transitional Assistance Support Information System. This system will serve to significantly improve the effectiveness and efficiency of State systems information infrastructures for the management, monitoring, and reporting on clients as they work towards independence and self sufficiency. The State may receive enhanced funding for these changes under specific approaches approved by DHHS and described below.

(b) The minimum capabilities of the State system include:

(i) Exchanging information as described above in A(d) in a standard, electronic format with the National Clearinghouse;

(ii) Querying electronically the National Welfare Receipt Registry in the National Clearinghouse before granting assistance;

(iii) Using the information received from the Clearinghouse in the determination of eligibility and time period for which assistance may be granted:

(iv) Reporting corrected or updated information to the Registry; and

(v) Meeting current statutory requirements for security and privacy.

(c) Alternative Interim Method: The Secretary may approve an alternative interim method if the State demonstrates that the alternative will be effective in reporting, receiving, and using transitional assistance information and the State has an approved Advanced Planning Document for the Automated Data Processing System that meets requirements in the proposed statute.

(d) The State may also augment the minimum system described above in specific ways and receive enhanced match for development costs under certain conditions. (The specific conditions are described in a later section.) Under this augmented system, clients will receive considerably enhanced service responsiveness through responsiveness through prescreening to match available services to individuals and determine the required qualifying and verification information needed for each service.

C. STATE AUTOMATED SYSTEMS

(a) As part of building better automated systems, States will be offered enhanced funding if they take one of two strategies to automation projects. That is, to economically and efficiently develop and implement automated systems in support of AFDC, child care, and JOBS/WORK programs, the Secretary will, as a condition of enhanced funding, require States to develop and use model systems developed in partnership with the Federal Government and other States under one of two approaches.

1. Federally Led and Sponsored Model Systems, in Partnership with State Agencies

Under this approach, the Department in partnership with the States will design and develop model automated support and case management information systems that assist the States in managing, controlling, accounting for, and monitoring the factors of the State plans for AFDC, child care, and JOBS/WORK programs as well as providing security safeguards. These model systems are described below:

(a) Transitional Assistance Support Information System: This model system will provide statewide, automated, procedures and processes to meet both the minimum requirements described above plus additional functions. The additional functions include at least: performing intake and referral; monitoring and reporting against some performance measures; exchanging information on-line with the Clearinghouse and exchanging data with other automated case management and information systems.

(b) Child Care Case Management Information System: This model system will provide statewide, automated, procedures and processes to achieve seamless child care delivery, including all child care programs of the State. This system will assist the State in administration of child care program(s) and to manage the non-service related CCDBG funds. The functions will meet both the minimum requirements described above plus additional functions which will include, at least, the ability to: identify families and children in need of child care, establish eligibility for child care, and determine funding source(s); plan and monitor services, determine payments, and update and maintain the family and child care eligibility status for child care; maintain and monitor necessary provider information; process payments and meet other fiscal needs for the management of child care program(s); produce reports required by Federal and State directives; monitor and report performance against performance standards; and electronically exchange information with other automated case management systems and with the statewide automated transitional assistance support system.

(c) JOBS/WORK Case Management Information System: This model system will provide statewide, automated, procedures and processes to control, account for, and monitor all factors of the JOBS and WORK programs and support both management and administrative activities of the programs.

these functions will meet both the minimum requirements described above plus additional functions including the capability to: assess a participant's service needs; develop an employability plan; arrange, coordinate, and manage the services or resources needed for the plan; track and monitor ongoing program participation and attendance; exchange information electronically with other programs; and provide performance and assessment information to the Secretary.

2. Multi-State Collaborative Projects, State Lead with Federal Partnership

Under this approach, the Department will assist and support State IV-A agencies, or the State's designated contracted agency (for child care or JOBS), in multi-State collaborative projects for purposes of designing and developing automated system models and in developing enhancements to existing systems as follows:

(a) Transitional Assistance Support System: In addition to meeting the Federally-sponsored model system functional specifications described above, States may, in collaborative efforts, augment their systems to include automation of additional functions as follows: determining eligibility; improving government assistance standards; performing case maintenance and management functions; calculating, managing, and reconciling payments to eligible recipients; providing for processes and procedures to detect and prevent fraud and abuse; and producing reports.

(b) Child Care and JOBS/WORK Case Management Information Systems: States may, in collaborative efforts, design, develop, and implement automated information systems that meet the model functional specifications of Child Care and JOBS/WORK described in the Federally-sponsored model approach.

D. FEDERAL FUNDING FOR NATIONAL WELFARE RECEIPT REGISTRY, MODEL STATE SYSTEMS TO SUPPORT STATE ACTIVITIES, AND TECHNICAL ASSISTANCE AND TRAINING

(a) $6 million will be needed to establish the National Welfare Receipt Registry in Fiscal Year 1995 and $4 million to operate the Registry for each of fiscal years 1996 through 1999; $7.5 million will be needed to develop the model systems for each of fiscal years 1995 and 1996; and $1 million will be needed to provide technical assistance and training to States for each of fiscal years 1995 through 1999.

E. FEDERAL FUNDING OF STATE SYSTEMS

(a) Under certain conditions, States may claim Federal Financial Participation (FFP) for the costs to establish and operate automated systems described above. Two match rates will be available.

(b) Enhanced Match. States are eligible for enhanced match (80 percent FFP) for up to 5 years after enactment for costs incurred in developing and implementing automated systems described above, including the costs of computer hardware, on the condition that the approach to system design, development, and implementation meets one of the two approaches:

1. Federally Sponsored Model: The State adapts and implements a model/prototype system developed by the Secretary in accordance with the functional specification described in that section, or

Multi-State Collaborative Project: The State, through a collaborative multi-State consortium, jointly designs, develops, and/or implements, a system or subsystems in accordance with the functional conditions and specifications described in that section.

(c) The Federal portion of the enhanced match will be limited to $800 million and will be available over a five year period State-by-State in accordance with a formula that takes into consideration State program caseload, existing level of automation and performance and progress against an approved advance planning document. The Secretary will develop regulations for the definition and implementation of these funding provisions.

(d) Exception for Adaptation of Existing System to Meet Minimum Requirements: If a State demonstrates to the Secretary that modifications to an existing system meet the minimum requirements of a Transitional Assistance Support System as described in that section and meet certain additional conditions, the Secretary may grant an exception to the enhanced funding requirements. The additional conditions are that the State requires limited enhancements to an existing system and the State demonstrates that it would be more cost-effective to proceed independently or with custom modifications.

(e) Regular Match: States will receive 50 percent FFP for operational costs and for costs they incur if they do not follow the enhanced match provisions described above and for systems features beyond those provided above.

F. ADDITIONAL FRAUD AND ABUSE PROVISIONS

Vision

Under this proposal, statutory provisions will require that States and specific Federal agencies utilize the information for purposes of reducing waste, fraud, and abuse. In order to ensure that Federal and State agencies implement and utilize the prescribed systems effectively for these purposes the following provisions apply. Federal and State expenditures for specific administrative costs will be reduced if—despite full implementation and use of the systems—actual savings from anti-fraud provisions do not meet anticipated savings. This provision will ensure that Federal and State agencies have a stake in the successful implementation and operation of information systems for anti-fraud and abuse purposes.

Specifications

(a) The Department of HHS will certify that the systems associated with the National New Hire Registry, the National Child Support Registry, and the National Welfare Receipt Registry are operational.

(b) For the purpose of reducing waste, fraud and abuse, the Office of Management and Budget (OMB) must certify that required Federal agencies have implemented and utilized the information fully to utilize information from these data systems.

(c) If OMB, in consultation with the Secretary of HHS, certifies that actual saving as a result of increased Federal and State activities of anti-fraud provisions are less than $290 million over five years (including savings as a result of Federal agencies fully utilizing the information) the following expenditure shall be reduced to make up the shortfall (This provision shall apply only if all provisions specified in (a) and (b) are fully met):

(i) The 2% set-aside for technical assistance, research and demonstrations (as specified in the Technical Assistance, Research and Demonstration section) and the 1% set-aside for training, technical assistance, research, and demonstrations (as specified in the Child Support Enforcement section) shall be reduced by an amount equal to the difference or up to the amount of the set-aside.

(ii) If the shortfall in savings is still greater than in (i), additional funds shall be reduced via the following mechanism: States that fail to implement the improved verification data source will receive 3% less in IV-A administrative matching funds.

(d) This provision shall be assessed in FY 1998. Penalties, if applicable, will be applied to FY 1999 funding, and every year thereafter.

(e) This provision shall expire at the close of FY 2004.

TECHNICAL ASSISTANCE, RESEARCH, DEMONSTRATIONS, AND EVALUATION [TITLE IV]

A. TECHNICAL ASSISTANCE, RESEARCH, AND EVALUATION

1. Authority to Tap JOBS/WORK and Child Care Funds For Research, Demonstrations, Evaluation and Technical Assistance Purposes

Current law

There are a variety of ways that funds are set aside for evaluation oversight and technical assistance support to programs. The Family Support Act, for example, authorizes specific amounts for implementation and effectiveness studies of the JOBS Program. Under the Head Start Act, 13 percent of annual appropriations are reserved by the Secretary for a broad range of uses including training, technical assistance and evaluation. The Secretary of HHS, at her discretion, sets aside 1% of Public Health program funding for evaluation of its programs.

Vision

Welfare reform seeks nothing less than a change in the "culture" of the welfare system. This necessitates making major changes in a system that has primarily been focused on issuing checks. Now we will be expecting States to change individual behavior and their own institutions so that welfare recipients will be moved into mainstream society. This will not be done easily. We see a major role for evaluation, technical assistance and information sharing. Initially, States will require considerable assistance as they design and implement the changes required under this legislation. Then, as one State or locality finds strategies that work, those lessons ought to be widely shared with others. One of the elements critical to this reform effort has been the lessons learned from the careful evaluations done of earlier programs. Those lessons and the feedback secured during the implementation of these reforms will be used in a formative sense and will guide continuing innovation into the future. We propose reserving 2% of the total annual capped entitlement funding for JOBS and At-Risk Child Care in FY 1996, FY 1997, and FY 1998 and 1% of the JOBS, At-Risk Child Care and WORK annual capped entitlement in fiscal years thereafter for research, demonstrations, evaluation, and technical assistance, with a significant amount reserved for child care. We seek to evaluate demonstrations in a number of different areas. Please see the sections on Make Work Pay, Child Support Enforcement, and Prevent Pregnancy and Promote Parental Responsibility.

Rationale

Sufficient funds should be available to ensure that the Department(s) can provide adequate levels of technical assistance to States, oversee State implementation of welfare reform, and carry out other supportive research and training activities. Tying funds to a percentage of the overall program dollars ensures that as the program grows, funds for research, evaluation and technical assistance also grow.

Specifications

(a) Reserve for the Secretary from amounts authorized for the capped JOBS, WORK and At-Risk Child Care funding, two percent of JOBS and child care funds in Fiscal Years 1996 through 1998, and one percent of JOBS, At-Risk Child Care, and WORK for each fiscal year thereafter for expenditures for research, evaluation, the provision of technical assistance to the States and to carry out research, evaluations, and demonstrations as described below. Technical assistance is defined broadly to include training, "hands-on" consultation to States requesting assistance, the transferring of "best practices" from one State to another, etc.

(b) To the extent that these issues can be researched in a methodologically sound way, the Secretary of HHS, in consultation with the Secretary of Labor and the Secretary of Education, shall conduct the following evaluation studies of time-limited JOBS followed by WORK:

(i) A two-phase implementation study that describes:

How States and localities initially responded to new policies, implemented the new program, the obstacles and barriers encountered, institutional arrangements entered into, and recommendations;

How States and localities subsequently performed as their programs matured including program design, services provided, operating procedures, funding levels, participation rates and recommendations. The study will also consider the effects on State and local administration of welfare programs including management systems, staffing structure, and "culture."

(ii) A study of the effectiveness of a time-limited assistance program followed by work in helping participants achieve self-sufficiency and the corresponding effect on unemployment rates, reduction of welfare dependency and teen pregnancy, and the effects on income levels, family structure, and children's well-being.

(iii) A comprehensive national study of the WORK program after it has been in effect for two years to measure success its success in assisting participants to obtain unsubsidized employment and to evaluate the skill levels and barriers to participants who were unable to obtain unsubsidized jobs.

B. DEMONSTRATIONS

1. Authority to Initiate Major Demonstrations and Pilot Programs to Improve the Effectiveness and Efficiency of the Reformed Welfare System

Current law

The Social Security Act authorizes the Secretary to conduct demonstrations. Many States operate demonstration programs with strong evaluation components that have helped shape public policy.

Vision

We propose key demonstrations in areas where additional feedback is required about the cost, feasibility, and/or effectiveness is necessary before national policy is determined. In each area, we propose both a set of policies for immediate implementation and a set of demonstrations designed to explore ideas for still bolder innovation in the future. In addition, we would encourage States, Indian tribes, and Alaskan Native organizations to develop their own demonstrations. In some cases we would provide additional Federal resources. Lessons from past demonstrations have been central to both the development of the Family Support Act and to this plan.

Specifications

(a) The Secretary of HHS shall have the authority to approve and conduct the following demonstrations, which will be funded out of the funds allocated to technical assistance, research, demonstrations, and evaluation (as discussed in detail below):

2. Demonstrations to Encourage Placement During Participation in the JOBS Program

Current law

There are no provisions in current law similar to what is proposed under this section.

Vision

One of the explicit goals of welfare reform is to transform the welfare system (and the JOBS program) into one which focuses from the very first day on helping people to get and hold jobs. To achieve this, we will find demonstration programs that focus on enhancing job placements. We envision two strategies, as specified below.

Rationale

A good JOBS program balances the need to communicate to those entering the welfare system that AFDC is a temporary support system by moving recipients quickly into the labor market while remaining sensitive to the fact that all recipients are not competitive in that market. We are changing the culture of welfare to get out of the business of writing checks and into the business of helping people find and keep jobs. We are changing the incentives in the welfare system to emphasize long-term placement in the workforce. We want to experiment with a number of new approaches that will spur caseworkers, clients, and service providers to help people get off welfare for good. We need more information about how to set up rewards that will reflect the new "mission" of the welfare system.

Specifications

(a) Placement Bonuses: No more than five demonstration grants would be available for programs that use placement bonuses to reward agencies or caseworkers who are particularly good at placing JOBS participants in private sector jobs. The emphasis will be on securing long-term placements in the labor market and on finding ways to place medium and long-term recipients.

(b) Placement Firms: No more than five demonstration grants would be available to States to work with private not-for-profit and for-profit organizations. Services that the organization will deliver, such as work preparation, placement services, and follow-up services will be specified. Performance standards will specify the basis on which the organizations will be paid. These performance standards would be based on placement and retention measures.

(c) The Secretary shall evaluate the effectiveness of such programs, preferably using random assignment of individuals to treatment and control groups or, where that is inappropriate for scientific reasons, the most rigorous appropriate method.

3. Demonstrations to Develop Work-for-Wages Programs Outside the AFDC System

Vision

States are encouraged to experiment with approaches to designing and administering the WORK program outside of the AFDC system. The Secretary may authorize up to 5 demonstration projects to assess the feasibility and effectiveness of WORK programs that are administered outside of the AFDC system. These demonstrations will be rigorously evaluated.

Rationale

It is not clear that the welfare system will be the most appropriate agency to run an employment based system like the WORK program in all States. In some cases, state-level Labor Department entities, non-profit, or proprietary agencies may have a comparative advantage. Even if a comparative advantage does lie with an organization independent of the welfare system, questions remain. For example, it is not apparent that the required ongoing communication between the agencies running the WORK program and the agency issuing supplemental income support checks (and retaining responsibility for other residual welfare functions) can be maintained. This, and other management uncertainties, must be resolved through demonstration programs.

Specifications

(a) Up to 5 local demonstration projects to test the development and implementation of WORK programs administratively located outside of the AFDC system will be conducted.

(b) The Secretary shall conduct a rigorous evaluation, preferably using a random assignment to treatment and control groups or, where that is inappropriate for scientific reasons, the most rigorous appropriate method.

(c) All individuals who exhaust their transitional assistance must be eligible to apply to the WORK program either after their initial spell on welfare or if they leave JOBS or WORK and subsequently reapply for assistance and have no time left. States may not deny admission into WORK for any reasons other than those discussed under the section on sanction policy.

(d) States must close AFDC cases when recipients reach the time limit. WORK programs under this subsection may only pay participants for performance of some activity.

(e) States may develop a system of compensation that mixes wages and WORK stipends. States must develop a system that ensures that WORK participants who comply fully with the program's rules are receiving income at least equal to what they would have received on AFDC plus the work disregard. States shall have flexibility on this criteria in the interest of administrative simplicity but the income from full compliance in WORK must exceed income on AFDC for a similarly situated family.

(f) States will be allowed to pay participants WORK stipends when they are not in a WORK assignment as compensation for a range of activities to be designated by the state, including job search, job clubs, and interim community service assignments. States will have flexibility in designing the stipend system, but it will have to be a pay-for-activity system.

(g) States would be allowed to develop a system of wage supplementation. WORK stipends could be provided to part-time workers either in unsubsidized jobs or in the WORK program. States would be encouraged to develop a simple system of supplements.

(h) Eligibility for the supplement would be contingent on satisfactory participation in WORK.

4. WORK Support Agency Demonstrations

Current law

At State option, Federal financial participation is available for JOBS activities and services provided for certain periods to an individual who has been a JOBS participant

but who loses eligibility for AFDC. These activities and periods are: (1) case management activities and supportive services for up to 90 days from the date the individual loses eligibility for AFDC; and (2) JOBS component activities for the duration of the activity if funds for the activity are obligated or expended before the individual loses eligibility for AFDC. (45 CFR 250.73) In addition, the State agency may provide, pay for, or reimburse one-time work-related expenses which it determines are necessary for an applicant or recipient to accept or maintain employment. (45 CFR 255.2)

Vision

In order to learn about the effects of work support strategies, we propose demonstration programs to test different approaches. The goal is to increase employment retention and reduce welfare recidivism by helping those individuals who become employed keep their jobs and those who lose their jobs to regain employment quickly. Case managers will maintain contact with and offer assistance to current or former AFDC recipients who obtain employment and provide direct assistance to aid them in employment retention or to help find a subsequent job. Payments to help meet the costs of certain employment-related needs may also be provided if determined necessary for job acceptance or retention, or reemployment.

States might establish work support agencies with distinctly different responsibilities than IV-A agencies and possibly housed separately from the local IV-A agencies to provide centralized services specifically to working families. The Work Support agencies could be administered, for example, by the State employment or labor departments; by Community Action Agencies, or a One-Stop Shopping Center.

The work support offices might provide food stamps, child care, advance EITC payments, and possibly health insurance subsidies to eligible low-income working families, or (at local discretion) families suffering a temporary labor market disruption. Employment-related services such as career counseling, assistance with updating resumes and filling out job applications would also be made available specifically to individuals who had left AFDC for work through the work support office. Services which might also be included are time and money management, family issues, workplace rules, establishing ongoing relationships with employers, providing mediation between employer and employee, assisting with application for the EITC, making referrals to other community services, providing or arranging for supportive services needed for employment retention or re-employment, and providing for job referral or placement assistance if initial jobs are lost. The supportive services which can be provided to aid job retention may include: occupational license, certification, or test fees, tool/equipment expenses, clothing, uniforms, or safety equipment costs, driver's license fees, motor vehicle maintenance, repair, insurance or license costs, other transportation expenses, moving expenses (related to accepting employment), emergency child care expenses, health-related expenses not covered by Medicaid, short-term mental health expenses, and family counseling.

Rationale

A significant proportion of new entrants will move between States of dependency and non-dependency. Some 70 percent of new entrants exit in two years, about one-half of these for work. But within five years, some 70 percent of those will return. A similar picture is found for those in the secondary labor market. Job transitions and disruptions are very common, even within brief time periods. Many of these people do not have sufficient work histories to qualify for benefits under the Unemployment Insurance system. The primary recourse available upon a job loss is the welfare system.

Our welfare and JOBS systems are geared toward graduations; treating people and moving them on. We now assume that even those with high levels of human capital may have to make seven or eight reinvestments in training and new skill/technology acquisitions over the course of a lifetime. We must begin to work on developing a similar perspective and supportive systems for low-wage workers and those who must, on occasion, receive income assistance for their families.

The participating State would be responsible for the design of the work support agency, including the administrative structure and the menu of services, but would have to receive approval from the appropriate departments (in most cases Agriculture, Health and Human Services and Treasury).

Specifications

(a) A separate authority under Title IV of the Social Security Act would be established whereby a designated number of entities chosen by the Secretary, in consultation with the Secretary of Labor, Agriculture, and Treasury, would be entitled to demonstration grants to operate a Work Support Agency to support individuals who have left AFDC for work.

(b) Up to five demonstration projects will be funded.

(c) The activities under the demonstration would be focused on providing coordinated employment-related services. Grantees would be given great flexibility to design programs to help former AFDC recipients retain employment.

5. Demonstration Grants for Innovative Paternity and Parenting Initiatives

Vision

This proposal would focus on helping fathers (primarily poor, young, non-marital fathers) understand and accept their responsibilities to nurture and support their children. Building on programs which seek to enhance the well-being of children, this proposal would facilitate the development of parenting components aimed specifically at fathers whose participation in the lives of their children is often ignored or even unintentionally discouraged.

Rationale

There is considerable evidence that increased poverty is not the only adverse affect on children of fatherless families. Fathers have an important role to play in fostering self-esteem and self-control in children as well as increasing and promoting the career aspirations of both sons and daughters. Some clinical researchers and social commentators believe that much of the increase in violent behavior among teenage boys is at least in part due to lack of positive male role-models and supportive fathering in many communities. But good fathering is especially difficult for the many men who themselves belong to a second and third generation of "fatherless" families or whose own role models for parenting where abusive or neglectful.

Specifications

(a) Demonstration grants will be made available to States, Indian tribes, and/or community based organizations to develop and implement non-custodial parent (fathers) components for existing programs for high risk families (e.g., Head Start, Even Start, Healthy Start, Family Preservation, Teen Pregnancy and Prevention) to promote responsible parenting, including the importance of paternity establishment and economic security for children, and the development of parenting skills.

(b) Grants must last three years, have an evaluation component, preferably using a random assignment of individuals to treatment and control groups or, where that is inappropriate for scientific reasons, the most rigorous appropriate method.

6. Section 1115 Waivers

Current Law

Section 1115(c)(3) of the Social Security Act restricts State waivers which can be granted under the child support program to those that would not increase the Federal cost of the AFDC program. In all other cases, States can offset increased costs in one program (such as increased expenditures for JOBS) with savings in other areas (such as AFDC and Medicaid). In child support, however, savings generated from non-IV-A programs cannot be used to cover IV-A costs resulting from IV-D waivers. The within-AFDC cost neutrality provisions for the child support program discourages States from looking at IV-D as part of their total welfare reform strategy and greatly restricts their abilities to design and implement child support demonstrations of interest and significance.

Specification

(a) Increase States' ability to test innovative IV-D and non-custodial parent programs. Give them the same degree of flexibility to offset AFDC costs resulting from demonstrations involving child support that now exists in the other programs. In addition, give States the authority to value the worth of work activities that non-custodial fathers do to reduce their AFDC debts and child support arrearages.

PREVENT TEEN PREGNANCY AND PROMOTE PARENTAL RESPONSIBILITY [TITLE V]

A. NATIONAL TEEN PREGNANCY PREVENTION INITIATIVE

1. Teen Pregnancy Prevention Grants and Establishment of a National Clearinghouse on Teen Pregnancy

Current Law

There are numerous Federal programs that address the issue of teen pregnancy prevention, including repeat pregnancies. Some of these programs focus specifically on teen pregnancy, but given that the multiple problems adolescents face are often interrelated, the specific problems that other programs emphasize (e.g., alcohol and drug abuse, school drop-out) are also related to adolescent pregnancy prevention. Current federal efforts include HHS's family planning grants, maternal and child health programs, adolescent health programs, runaway and homeless youth programs, and alcohol and drug abuse prevention programs. Department of Education efforts include drug-free schools and communities programs, and postsecondary education outreach and student support services programs; and the Department of Labor efforts include New Chance, Youth Fair Chance, JTPA programs, and the Young Unwed Fathers Project. There are also programs in the Departments of Housing and Urban Development, Agriculture, Justice, Interior and Defense.

Vision

We must address the issue of births among unmarried teens. There will be a national

campaign to help reduce the number of unmarried teenagers who become pregnant. This campaign will also take into account the myriad of risky behaviors that can be related to teenage pregnancy. It will strive to develop, enhance and promote youth competence, as well as foster ties to families, communities, and society.

The rise in births to unmarried teens over the past generation has raised the issue of teen pregnancy to enormous national significance. The number of births to unwed teen mothers increased from 92,000 in 1960 to 368,000 in 1991. Adolescents who bring children into the world face a very difficult time getting themselves out of poverty, while young people who graduate from high school and defer childbearing until they are mature, married and able to support their offspring are far more likely to get ahead. Both parents bear responsibility for providing emotional and material support for their child. The overwhelming majority of teenagers who bring children into the world are not yet equipped to fulfill this fundamental obligation. They are often unable to handle peer pressures and the risk of other activities leading to negative consequences, such as alcohol and drug abuse, delinquency and violence.

The non-legislative aspects of this campaign are a national mobilization of business, national and community voluntary organizations, religious institutions, schools, and the media behind a shared and urgent challenge directed by the President; the announcement of national goals to define the mission and to guide the work of the national campaign; and the establishment of a privately funded non-profit, non-partisan entity committed to the goals and mission of the national campaign. These are the essential building-blocks of a comprehensive campaign for youth balancing opportunity and responsibility across the full range of Administration youth initiatives, including Goals 2000, School-to-Work, National Service, the preventive health provisions under the Health Security Act, the after-school and jobs programs included in the prevention package in the Crime Bill, as well as the prevention strategies proposed below as part of welfare reform.

There are two legislative aspects of this initiative. The first, addressed below, is a Teen Pregnancy Prevention Grant Program where about 1,000 schools and community-based entitles would be provided flexible grants to implement promising teen pregnancy prevention strategies. Funding would be targeted to schools with the highest concentration of middle and high school age youth at-risk. The goal would be to work with youth as early as age 10 and establish continuous contact and involvement through graduation from high school. To ensure quality and establish a visible and effective presence, these programs will be supervised by professional staff and, where feasible, be supported by a team of national service participants provided by the Corporation for National and Community Service. The second, described in number 2 below, is a comprehensive services demonstration approach to enhance our learning from prevention strategies.

Specifications

(a) A separate authority under the Title XX of the Social Security Act would be established for grants to promote the development, operation, expansion, and improvement of school-based and -linked adolescent pregnancy prevention programs in areas where there are high poverty rates or high rates of unmarried adolescent births.

(b) The approved applicant shall be entitled to payment of at least $50,000 and not more than $400,000 each fiscal year for five years. The grant amount will be based on an assessment of the scope and quality of the proposed program and the number of children to be served by the program. The grant must be expended in the fiscal year it is awarded or in the succeeding fiscal year. At least a 20 percent non-Federal, cash or in-kind match, is required. Priority will be given to those with a higher match or an increasing ratio of non-Federal resources over the length of the grant.

(c) The grants will be jointly awarded by HHS, Education, and the Corporation for National and Community Service, in consultation with other Federal departments and agencies. The administration of the program could be delegated to another Federal entity, such as the proposed Ounce of Prevention or the Community Empowerment Board.

(d) Eligible grantees are a partnership that includes a local education agency, acting on behalf of one or more schools, and one or more community-based organziations, institutions of higher education, or public or private for-profit or non-profit agencies or organizations. Existing successful programs—including those now operated by national voluntary organizations—would be encouraged to apply for funds to expand and upgrade their services. Grantees would have to be located in a school attendance area where either (1) at least 75 percent of the children are from low-income families as defined under part A of title 1 of the Elementary and Secondary Education Act of 1965, or (2) there are a significant number of children receiving AFDC, or (3) there is a high unmarried adolescent birth rate. Geographic distribution, including urban and rural distribution, would be taken into account in selection of grantees.

(e) Grantees would, based on local needs, design and implement promising programs to prevent teen pregnancy through a variety of approaches. Grantees would be given a great deal of flexibility in designing their program. However, core components at each site must include:

Curriculum and counseling designed to reach young people that address the full range of consequences of premature sexual behavior and teen pregnancy. Existing models of best practices suggest that these educational activities should focus on developing the psychology and character required for responsible behavior as well as on expanding cognitive knowledge.

Activities designed to provide opportunities for youth at-risk to develop sustained contact with one or more volunteer or professionally trained adults to provide character development. Group coaching, individual mentoring, and a range of activities after-school, on weekends, and in the summer could be included. Such activities could also include community service by the youth themselves.

To ensure quality, programs would be coordinated by one or more professional staff. The programs, where feasible, would also utilize national service participants to engage students, parents, families, and the community in organized efforts to reduce risk-taking behaviors that may lead to adolescent pregnancy, including the delivery of services and in the coordination of during- or after-school activities. Grantees will be asked to describe the role that any National Service participants will play in the program, consistent with the National and Community Service Act of 1990.

Grantees are allowed to expand on these core components, including conducting activities as part of another youth development program.

(f) Grantees would be asked to submit an application. The primary aspect of the application would be a plan which addresses local needs and describes (a) the measurable goals the applicant wants to achieve and how it intends to measure progress in achieving the goals; (b) curriculum and counseling and sustained adult relationships components of the program, as well as any additional components, and how they intend to implement them; and (c) how national service participants will be an integral part of the program, where feasible.

They would also be asked to provide other assurances, including—

How the services provided are based on research of effective approaches to reducing teen pregnancy. Other risk-taking behaviors correlated with teen pregnancy should also be included.

How both male and female teens and, where possible, out-of-school teens will be served.

How each program would work with middle and/or high school age youth (ages 10 through 19) to establish continuous contact and involvement through graduation from high school.

How school staff, parents, community organizations, and the teens to be served have been and will be included in the development of the application as well as the planning and implementation of the program.

Evidence of ongoing commitment with other community institutions, such as churches, youth groups, universities, businesses, or other community, civic, and fraternal organizations.

Coordination of their program with other Federal or federally assisted programs, State and local programs, and private activities, and how the applicants resources and services are linked and coordinated. For example, how they are coordinating State education reform efforts underground by the State education agency.

How the program plans to continue operation following completion of the grant period.

How funds will not supplant Federal, State, or local funds.

(g) A grantee would be given priority if their non-Federal resources are significantly is excess of the 20 percent required or there is an increasing ratio of non-Federal resources over the length of the grant, and if they participate in other Federal and non-Federal programs.

(h) The Secretary may terminate a grant before the end of the 5-year period if the Secretary determines that the grantee conducting the project has failed substantially to carry out the project as described in the approved application.

(i) Total funding for the program is $300 million over five years. $20 million in FY 1995, $40 million in FY 1996, $60 million in FY 1997, $80 million in FY 1998 and $100 million in FY 1999 and each subsequent fiscal year thereafter. Up to ten percent of the funding will be set-aside for the evaluation, training, and technical assistance as well as for establishment of a National Clearinghouse on Teen Pregnancy (see j. and k. below). Since this program and the Clearinghouse is authorized through Title XX of the Social Security Act, any funds not expended in a fiscal year shall be redirected to the Title XX Social Services Block Grant Program.

(j) A rigorous Federal evaluation of some sites would be conducted. Grantees would be

asked to provide information requested for the evaluation. Training and technical assistance would also be provided to the grantees.

(k) A National Clearinghouse of Teen Pregnancy Prevention would be established to provide communities and schools with teen pregnancy prevention programs with curricula, models, materials, training and technical assistance. There could be an existing clearinghouse or technical assistance center. It will establish an information exchange and network on promising models and rigorous evaluation.

The Clearinghouse would be a national center for the collection and dissemination of programmatic information and technical assistance that relates to teen pregnancy prevention programs. It will also look at the State of teen pregnancy prevention program development, including information on the most effective models. It would develop and sponsor training institutes and curricula for teen pregnancy prevention program staff, and develop networks for sharing and disseminating information. The Clearinghouse could also conduct evaluations of teen pregnancy prevention programs (not limited to the grants provided in this bill).

2. Learning from Prevention Approaches through Comprehensive Services Demonstrations to Prevent Teen Pregnancy in High Risk Communities

Current Law

There are demonstration authorities that exist to serve youth in particular areas, but most are not as comprehensive as the demonstrations described below in the scope of services for all youth and are not a saturation model.

Vision

Early unwed child-bearing and other problem behaviors are interrelated and strongly influenced by the general life-experiences associated with poverty. Changing the circumstances in which people live and consequently how they view themselves is needed to change the decisions young people make in regard to their lives.

For any effort which hopes to have results that are large enough to be meaningful, attention must be made to circumstances in which youth grow up. It should address a wide spectrum of areas associated with youth living in a healthy community: economic opportunity, safety, health, and education.

Particular emphasis must be paid to the delay of sexual activity and prevention of adolescent pregnancy before marriage. Programs that combine these elements have shown the most promise, especially for adolescents who are motivated to avoid pregnancy until they are married. However, for those populations where adolescent pregnancy is a symptom of deeper problems, education and contraceptive services alone will be inadequate; they must be part of a much wider spectrum of services.

Interventions need to enhance education, prevent drug use, link education to health and other services, and help stabilize communities and families in trouble. This would provide a sense of rationality and order in which you can develop, make decisions, place trust in individuals and institutions serving them, and have a reasonable expectation of a long, safe, and productive life.

Comprehensive Demonstration Grants for Youth in High-Risk Communities of sufficient size or "critical mass" to significantly improve the day to day experiences, decisions and behaviors of youth are proposed. Services would be non-categorical, integrated and delivered with a personal dimension. They would follow a "youth development" model and would seek to assist communities as well as directly support youth and families. These demonstrations would be coordinated with other Administration activities, such as the prevention components of the Crime bill and empowerment zones, and would be part of an overall community strategy for youth.

Specifications

(a) A separate authority under the Title XX of the Social Security Act would be established whereby a designated number of community sites chosen by the Secretary, in consultation with the Secretaries of Education, HUD, Justice, Labor, and the Director of the Office of National Drug Control Policy, would be entitled to a demonstration grant to educate and support school-age youth (youth ages 10 through 21) in high risk situations and their family members through comprehensive social and health services, with an emphasis on pregnancy prevention.

(b) Funding and services provided under this demonstration do not have to achieve this goal of comprehensiveness in and of themselves. Rather, this funding can be used to provide "glue money," fill gaps in services, ensure coordination of services, and other similar activities which will help achieve the overall goal of comprehensive integrated services to youth.

(c) Starting in FY 1995, up to seven community sites would be entitled to $90 million over 5 years (up to $3.6 million per site). Grantees would be required to provide a 10 percent, in cash or in-kind, match of the Federal funding. Priority would be given to those with a higher match or an increasing ratio of non-Federal resources over the length of the grant. Since this program is authorized through Title XX of the Social Security Act, any funds not expended in a fiscal year shall be redirected to the Title XX Social Services Block Grant Program.

(d) The demonstration grantee would develop a community-wide strategy to address the causes and factors of risk-taking tendencies among youth, to positively affect community norms, to increase community health and safety, and to generally improve the social environment to enhance the life choices of community youth. The strategy would be used to provide a comprehensive set of coordinated services designed to saturate the community and would include, but not be limited to, the following areas:

(i) Health education and access services designed to promote physical and mental well-being, delay sexual activity, and personal responsibility. These include school health services, family planning services, alcohol and drug use prevention services and referral for treatment, life skills training, and decision-making skills training.

(ii) Educational and employability development services designed to promote educational advancement that lead to a high school diploma or its equivalent and opportunities for high skill, high wage job attainment and productive employment, to establish a lifelong commitment to learning and achievement, and to increase self-confidence. Activities could include, but are not limited to, academic tutoring, literacy training, drop-out prevention programs, career and college counseling, mentoring programs, job skills training, apprenticeships, and part-time paid work opportunities.

(iii) Social support services designed to provide youth with a stable environment, continuous contact with adults, and encouragement to participate in safe and productive activities. Services could include, but are not limited to, cultural, recreational and sports activities, leadership development, peer counseling and crisis intervention, mentoring programs, parenting skills training, and family counseling.

(iv) Community activities designed to improve community stability, and to encourage youth to participate in community service and establish a stake in the community. Activities could include, but are not limited to, community policing, community service programs, community activities in partnership with less distressed communities, local media campaigns, and establishment of community advisory councils with youth representation.

(v) Employment opportunity development activities designed to be coordinated with educational and employability development services, social support services, and community activities described in (ii) through (iv). Emphasis would be on the development of linkages with employers within and outside the community to help create employment opportunities and foster an understanding by community youth of the relationship between productive employment, healthy development, and sound life choices.

(e) Sites would have to meet the following characteristics, and any others determined by the Secretary of Health and Human Services, in consultation with the other Federal agencies.

(i) Geographic—Communities must identify the community or communities they will target. Smaller, more focused boundaries than those required in Empowerment Zones or Youth Fair Chance will be used in order to develop a "critical mass" of services to meet the above goals. Each community must have an identifiable boundary and must be considered a community by its residents.

(ii) Population—Each community or group of communities have populations of approximately 20,000 to 35,000 people.

(iii) Poverty—The entire area must have a poverty rate of at least 20%.

(f) Local governments (or units of local governments) and local public and private non-profit organizations could apply. Applicants would be required to supply evidence of comprehensive commitment to the project and collaboration between the community and the city and State (such as local school to work partnerships). The applicant must involve multiple elements (e.g., government, schools, churches, businesses) of the community and the State in the planning and implementation of the demonstration program. Applicants must demonstrate (1) ability to manage this major effort, (2) resources for obtaining data and maintaining accurate records, (3) how they will coordinate with other programs serving the same population, and (4) assurances that the funding provided through this program will not be used to supplant Federal funds for services and activities which promote the purposes of this program.

(g) Applicants must define the goals intended to be accomplished under the project. They must also describe the methods to be used in measuring progress toward accomplishment of the goals and outcomes to be measured. Outcomes to be measured would include, but are not limited to, unmarried birth rates, high school graduation rates, college attendance rates, rates of alcohol and other drug use and violence reduction.

(h) The Department will support rigorous evaluations of all demonstrations. The Federal government will also provide technical

assistance to applicants throughout the life of the demonstration. These activities will be coordinated with the National Clearinghouse on Teen Pregnancy Prevention. $10 million would be provided for these activities.

(i) The Secretary may terminate a grant before the end of the 5-year period if the Secretary determines that the grantee conducting the project has failed substantially to carry out the project as described in the approved application.

B. INCENTIVES FOR RESPONSIBLE BEHAVIOR

1. Minor Parents Live at Home

Current Law

Under Section 402(a)(43) of the Social Security Act, States have the option of requiring minor parents (those under the age of 18) to reside in their parents' household, a legal guardian or other adult relative, or reside in a foster home, maternity home or other adult supervised supportive living arrangement (with certain exceptions). Delaware, Maine, Michigan, Virgin Islands, and Puerto Rico have included this in their State plans.

Vision

By definition, minor parents are children. We believe that children should be subject to adult supervision. This proposal would require minor parents to live in an environment where they can receive the support and guidance they need. At the same time, the circumstances of each individual minor will be taken into account in making decisions about living arrangements.

Specifications

(a) All States would require minor parents to reside in their parents' household or with a legal guardian, with certain exceptions as described below. This is the same as the allowed State option under current law, except that now the provision would be a requirement in all States.

(b) As in current law, when a minor parent lives with her parent(s), the parent(s)' income is taken into account in determining the benefit. If the minor parent lives with another responsible adult, the responsible adult's income is not taken into account. Child support would be sought in all cases.

(c) A minor parent is an individual who (i) is under the age of 18, (ii) has never been married and (iii) is either the natural parent of a dependent child living in the same household or eligible for assistance paid under the State plan to a pregnant woman. This is the same definition as current law.

(d) The following exceptions (now in current law) to living with a parent or legal guardian will be maintained:

(i) individual has no parent or legal guardian of his or her own who is living and whose whereabouts are known;

(ii) no living parent or legal guardian of such individual allows the individual to live in the home of such parent or guardian;

(iii) the State agency determines that the physical or emotional health or safety of the individual or dependent child would be jeopardized if the individual and dependent child lived in the same residence with the individual's own parent or legal guardian;

(iv) individual lived apart from his or her own parent or legal guardian for a period of at least one year before either the birth of any dependent child or the individual having made application for aid to families with dependent children under the plan; or

(v) the State agency otherwise determines (in accordance with regulations issued by the Secretary) that there is good cause for waiving the requirement. (In those States that have this policy, the following are examples of what they determine to be good cause exceptions: the home is the scene of illegal activity; returning home would result in overcrowding, violation of the terms of the lease, or violation of local health and safety standards; the minor parent is actively participating in a substance abuse program which would no longer be available if she returned home; no parent or legal guardian lives in the State.)

(e) Current law and regulation requiring that the determination of a minor parent's residency status must be made within 45 days that all eligibility determinations are made would be maintained.

(f) If the State determines the minor should not live with a parent or legal guardian (or the current arrangement ceases to be appropriate because circumstances change), the minor must be assisted in obtaining an appropriate supportive alternative to living independently. (The types of living arrangements that States now use or are considering include living with an adult relative, a licensed foster home, in a group home for pregnant teens or teen parents, and in an approved congregate housing facility.) If no appropriate setting is found the State must grant eligibility, but must utilize case managers to provide support for the minor.

(g) The State would use the case management for teen parent provision (see #2 below) to make the determinations required under this provision. As described in the next proposal, these case managers would be trained appropriately and have reasonable caseloads. Determinations would be made after a full assessment of the situation, including taking into account the needs and concerns expressed by the minor.

(h) This provision would go into effect in FY 1996.

2. Limiting AFDC Benefits To Additional Children Conceived While on AFDC

Current Law

Currently, families on welfare receive additional support whenever they have an additional child.

Vision

States should be allowed to seek to reinforce parental responsibility by not increasing AFDC benefits when a child is conceived while the parent is on welfare. The message of responsibility would be further strengthened by providing the family an opportunity to earn what would have been paid in benefits.

Specifications

(a) Allow States the option of limiting the increase, in full or in part, in the AFDC benefit amount when an additional child is conceived while the parent is on welfare. In order to exercise this option, the State must demonstrate that family planning services under 402(a)(15) are available and provided to all recipients who request them.

(b) Under this option, if a parent has an additional child, the State must disregard an amount of income equal to any increase in aid that would have been paid as a result of the additional child. Types of income to be disregarded include: (i) child support; (ii) earned income; or (iii) any other source that the State develops and is approved by the Secretary.

(c) The provision would not be applied in the case of rape or in any other cases that the State agency finds would violate the standards of fairness and good conscience (such as where there is clear evidence that contraceptive failure occurred in an unemployed parent AFDC family).

(d) This provision would go into effect in FY 1996.

3. Case Management for All Custodial Teen Parents

Curent law

Section 482(b)(3) of the Social Security Act allows States to provide case management to all those participating in the JOBS program.

Vision

Frequently, it is multiple problems that lead youth to the welfare system. Their complex needs often stand in the way of their meeting educational requirements and other responsibilities. Removing these barriers to self-sufficiency can involve the confusing and difficult process of accessing multiple service systems. This proposal would provide every teen with a case manager who would help them navigate these systems and hold them accountable for their responsibilities and requirements.

Specifications

(a) Require States to provide case management services to all custodial teen parents under age 20 who are receiving AFDC.

(b) Case management services to teen parents will include, but is not limited to: (i) assisting recipients in gaining access to services, including, at a minimum, family planning, parenting education, and educational or vocational training services; (ii) determining the best living situation for a minor parent, taking into account the needs and concerns expressed by the minor (see #1 above); (iii) monitoring and enforcing program participation requirements (including sanctions and incentives were appropriate); and (iv) providing ongoing general guidance, encouragement and support.

States must describe in their plans how they will meet these requirements.

(c) Case managers must receive adequate training in the social service and youth development field, and States should take into account recommendations by appropriate professional organizations to carry this out. Also, the case managers must be assigned a caseload of a size that permits effective case management (adequately serves and protests teen parents and their children).

(d) This provision would go into effect in FY 1996.

4. Teen Parent Education and Parenting Activities State Option

Current law

Under section 402(a)(19) of the Social Security Act, teen custodial parents are required to participate in the JOBS program unless they are under 16 years of age, attending school full-time, or are in the last seven months of pregnancy. Participation in the JOBS program involves an assessment of the individual, and an agreement specifying what support services the State will provide and what obligations the recipient has. For those who have not obtained a high school diploma or a GED, attendance at school can serve as their JOBS assignment. Participation in the JOBS program is contingent on the existence of such a program in the geographic vicinity of the recipients' residence.

In addition, under a Section 1115 waiver, States, can implement programs which utilize incentives or sanctions to encourage or require teen parents on AFDC to continue their education. Two examples of States have done or planning to do this are the Learning, Earning, and Parenting Program (LEAP) in Ohio and Cal Learn in California, which is in the process of being implemented. LEAP and Cal Learn are mandatory for all pregnant and custodial teen parents

who are receiving AFDC and who do not have a high school diploma or GED. Under both LEAP and Cal Learn program rules, all eligible teens are required to enroll (or remain enrolled) in and regularly attend a school or education program leading to a high school diploma or GED. These two initiatives apply only to teens who are case heads. Other States have obtained waivers to implement programs using sanctions to influence dependents to continue their education.

Vision

Teenage mothers face substantial obstacles to achieving self-sufficiency. Eight percent of teen mothers drop out of high school and only 56 percent ever graduate. Their earning abilities are limited by lack of education and job skills. Teen parents are often not well prepared in the area of parenting. This proposal provides States with a mechanism to utilize creative approaches for encouraging and supporting youth in both their educational and parenting endeavors.

Specifications

(a) Provide States the option to use monetary incentives (which must be combined with sanctions) as inducement for pregnant teens and teen custodial parents who are receiving AFDC and who do not have a high school diploma or GED to enroll (or remain enrolled in and regularly attend a school of education program leading to a high school diploma or GED, or a program leading to a recognized degree or skills certificate if the State determines this is most appropriate for a recipient. States may also choose to provide incentives for participation in parenting education activities. This option will operate as part of the new JOBS program, and the rules pertaining to JOBS will apply unless it is specifically stated otherwise.

(b) Each State plan must clearly define the following—

Incentives: States must define by how much benefits will be increased and what kinds of achievements will be rewarded.

Examples of incentives chosen by Ohio and California are as follows:

In Ohio's LEAP, teens who provide evidence of school enrollment receive a bonus payment of $62. They then receive an additional $62 in their welfare check for each month in which they meet the program's attendance requirements. For teens in a regular high school in Ohio, this means being absent no more than four times in the month, with two or fewer unexcused absences. Different attendance standards apply to part-time programs, such as Adult Basic Education (ABE) programs providing GED preparation assistance, but the same financial incentives apply.

Participants of Cal Learn will be required to present their report cards four times a year. The grant will be increased by $100 for the month after the Cal Learn participant receives a report card with a "C" average or better. For graduating high school (or its equivalent), these teens will have their grants increased on a one time basis by $500.

Sanctions: Sanctions under the revised JOBS program would apply unless the State proposes alternative sanctions, to be approved by the Secretary, which the State believes better achieves their objectives.

Examples of sanctions chosen by Ohio and California are as follows:

In LEAP, teens who do not attend an initial assessment interview (which commences participation in LEAP) or fail to enroll in school have $62 deducted from their grant (i.e., the teens are "sanctioned") each month until they comply with program rules. Similarly, enrolled teens are sanctioned by $62 for each month that they exceed the allowed number of unexcused absences. Teens who exceed the allowed number of total absences, but do not exceed the allowed number of unexcused absences receive neither a bonus nor a sanction.

In the Cal Learn program, teens who do not receive at least a "D" average or who do not submit his/her report card will have the assistance unit grant reduced over a two month period by the lesser of $50 or the amount of the grant. This will result in a sanction of not more than $100. Included in the sanctions will be teens that do not present their report cards because they have dropped out of school or were expelled.

Coordination: A case manager (as described in A.2) will assess each recipient's needs and arrange for appropriate services. States must describe the mechanism case managers and other service providers will use to coordinate with schools.

Eligibility: Custodial teen parents under 20 years of age and pregnant women under the age of 20 who have not received a high school diploma (or equivalent) are eligible. States may choose to include custodial pregnant teens and teen parents up to their 21st birthday.

Exemptions: Exemptions from participation will be based on the same new guidelines governing participation in JOBS and WORK, with two exceptions. First, teens will only be able to defer participation for 3 months after giving birth. Also, a disability will not allow a recipient to defer participation in high school, as school districts are required to provide students with disabilities appropriate services. (See JOBS and WORK section of proposal for more specific details.)

State-wideness: States can limit the geographic scope of this option.

Information and Evaluation: States would be required to provide information at the Secretary's request and to cooperate in any evaluation.

(c) Monetary incentives provided under this program would be considered AFDC.

(d) Monetary incentives provided under this option would not be considered income in determining a family's eligibility for any other Federal or Federally-assisted program, and any other Federal or Federally-assisted program would treat any penalty imposed as if no such penalty had been applied.

(e) This provision would go into effect in FY 1996.

CHILD SUPPORT ENFORCEMENT PROPOSAL

[TITLE VI]

I. Establish awards in every case

The first step in ensuring that a child receives financial support from the noncustodial parent is the establishment of a child support award. This is normally done through a legal proceeding to establish paternity or at a legal proceeding at the time of a separation or divorce. States currently receive Federal funding for paternity establishment services provided through the IV-D agency. This proposal expands the scope and improves the effectiveness of current State paternity establishment procedures. States are encouraged to establish paternity for as many children born out-of-wedlock as possible, regardless of the welfare or income status of the mother or father and as soon as possible following the child's birth. This proposal further requires more outreach about paternity establishment to stress that having a child is a two-parent responsibility. Building on the President's recent mandate for in-hospital paternity establishment programs enacted as part of the Omnibus Budget and Reconciliation Act (OBRA) of 1993, it further encourages nonadversarial procedures to establish paternity as soon as possible following the child's birth, streamlines procedures surrounding genetic parentage testing, and requires efforts to remove barriers to interstate paternity establishment.

Paternity Performance and Measurement Standards

Under current law, State performance is only measured against those cases in the IV-D child support system that need paternity established. Children are often several years old or older by the time they enter the IV-D system (normally when the mother applies for welfare). Research shows that the longer the paternity establishment process is delayed, the less likely it is that paternity will ever be established, so it is important to start early, before a mother goes on welfare.

Under the proposal, each State's paternity establishment performance will be measured based not only upon cases within the State's current IV-D child support system, but upon all cases where children are born to an unmarried mother. States will then be encouraged to improve their paternity establishment for all out-of-wedlock births through performance-based incentives. (Current paternity establishment performance standards for IV-D cases will also be maintained.)

(1) Each State will be required, as a condition of receipt of Federal funding for the child support enforcement program, to calculate a State paternity establishment percentage based on yearly data that record: (a) all out-of-wedlock births in the State for a given year, regardless of the parents' welfare or income status; and (b) all paternities established for the out-of-wedlock births in the State during that year.

The Secretary shall prescribe by regulation the acceptable methods for determining the denominator and the numerator of the new paternity establishment performance measure with a preference for actual number counts rather than estimates.

Financial Incentives for Paternity Establishment

In order to encourage States to increase the number of paternities established, the Federal government will provide performance-based incentive payments to States based on improvements in each State's paternity establishment percentage. The incentive structure will reward the early establishment of paternity so that States have both an incentive to get paternities established as quickly as possible and an incentive to work older cases. (See also State Paternity Cooperation Responsibilities and Standards, p. 11). Finally, current regulations establishing time-frames for establishing paternity will be revised since the administrative procedures required under the proposal will allow cases to be processed more quickly.

(1) Federal Financial Participation rate (FFP) will be provided for all paternity establishment services provided by the IV-D agency regardless of whether the mother or father signs a IV-D application.

(2) Performance-based incentives will be made to each State in the form of increased FFP of up to 5 percent. The incentive structure determined by the Secretary will build on the performance measure so that States that excel will be eligible for incentive payments.

(3) At State option, States may experiment with programs that provide financial incentives to parents to establish paternity. The

Secretary will additionally authorize up to three demonstration projects whereby Federal Financial Participation is available for financial incentives to parents for establishing paternity.

(4) The Secretary will issue regulations establishing revised time-frames for establishing paternity.

Streamlining the Paternity Establishment Process

Encouraging early establishment of paternity

Very little outreach is currently conducted about the importance and mechanics of establishing paternity in public health related facilities (e.g. prenatal clinics or WIC clinics), even though these facilities have significant contact with unmarried pregnant women. For example, in 1990, less than 1 percent of all counties reported they conducted outreach about paternity establishment in prenatal clinics. Conducting outreach in these public-health related facilities will not only broaden knowledge about the benefits of establishing paternity in general, but will also enhance the effectiveness of hospital-based programs. By the time the parents of an out-of-wedlock child are offered an opportunity to establish paternity in the hospital, the parent(s) will have already had an opportunity to obtain information about and reflect upon why they should establish paternity for their child.

As part of the effort to encourage the early establishment of paternity, the proposal allows State agencies and mothers to start the paternity establishment process even before the child is born. Since fathers are much more likely to have a continuing relationship with the mother at that time, locating the father and serving him with legal process is much easier. If the father does not acknowledge paternity, a genetic test can then be scheduled immediately after the birth of the child.

Experience has also shown that while a high proportion of fathers are willing to consent to paternity in the hospital, there are some who are unwilling to voluntarily acknowledge paternity outright but would do so if genetic testing confirmed parentage. The hospital based paternity establishment process can be further streamlined by providing the opportunity for genetic testing right at the hospital. This is an efficient use of resources since hospitals are already fully equipped to obtain samples for these tests and blood tests are already performed on newborns at the hospital for other purposes.

As part of the State's voluntary consent procedures, each State must:

(1) require, either directly or under contract with health care providers, other health-related facilities (including pre-natal clinics, "well-baby" clinics, in-home public health service visitations, family planning clinics and WIC centers) to inform unwed parents about the benefits of and the opportunities for establishing legal paternity for their children; this effort should be coordinated with the U.S. Public Health Service. WIC program information shall also be available to the IV-D agency in order to provide outreach and services to recipients of that program.

(2) require full participation by hospitals and other health-related facilities to cooperate and implement in-hospital paternity establishment programs as a condition of reimbursement of Medicaid.

As part of a State's civil procedures for establishment of paternity, each State must: (1) have statutes allowing the commencement of paternity actions prior to the birth of the child and procedures for ordering genetic tests as soon as the child is born, provided that the putative father has not yet acknowledged paternity; (2) make available procedures within hospitals to provide for taking a blood or other sample at the time of the child's birth, if the parents request the test.

Simplifying paternity establishment

Currently, acknowledgements of paternity must create either a rebuttable or conclusive presumption of paternity. A rebuttable presumption means that even though someone has admitted paternity, they can later come in and offer other evidence to "rebut" their previous acknowledgement. This leaves many cases dangling for years and years. The parents believe in some cases that paternity is established when, in fact, it is not. Under the proposal, rebuttable presumptions "ripen" into conclusive presumptions after one year. A conclusive presumption acts as a judgment so that paternity has, in fact, been officially established. States are allowed some flexibility to tailor due process provisions.

The vast majority of paternity cases can be resolved without a trial once a genetic test is completed. Such tests are highly accurate and will effectively either exclude the alleged father or result in a paternity probability over 99 percent. Virtually all alleged fathers will admit to paternity when faced with genetic test results showing near certainty that he is the father. Currently in most States, however, changes in the legal process have not kept up with the changes in genetic testing technology, resulting in an unnecessary and inefficient reliance on the courts to handle the matters surrounding genetic tests.

Under the proposal, States will no longer have to start a legal proceeding through the courts and have a court hearing simply to have a genetic test ordered. States are also precluded from requiring a court hearing prior to ratification of paternity acknowledgments. These procedures will speed up what is otherwise unnecessarily a very time consuming and labor intensive process. Another delay in the process occurs if the father fails to show for an ordered blood test. Often the IV-D agency must go back to court to get a default order entered, even though this process could be handled more efficiently on an administrative basis. Under the proposal, the IV-D agency will be given the authority to enter default orders without having to resort to the courts.

The Federal government currently pays 90 percent of the laboratory costs for paternity cases requiring genetic testing and will continue to do so. However, there is currently a great deal of variation at the State and local level regarding whether and under what circumstances the costs of genetic testing are passed on to fathers facing a paternity allegation. The proposal will eliminate the current variation by requiring all States to advance the costs of genetic tests, and then allowing recoupment from the alleged father in cases where he is determined to be the biological father of the child. By advancing the costs of genetic testing, there is no financial disincentive for alleged fathers to evade genetic testing. At the same time, requiring that an alleged father reimburse the State for the cost of genetic tests should he be determined to be the biological father eliminates any incentives for fathers to request genetic tests as a "stalling" technique and promotes voluntary acknowledgment of paternity when appropriate.

In the event that a party disputes a particular test result, the dispute should normally be resolved through further testing. The party should be given the opportunity to have additional tests but also be required to incur the costs of those additional tests. This will help to ensure that the opportunity to request additional testing is used only in cases where there is a legitimate reason to question the original test results and not used as a delaying tactic to avoid establishing paternity.

Currently, research on non-custodial fathers suggests that many fathers who might otherwise be open to the idea of establishing paternity are deterred from doing so because they may then be required to pay large amounts of arrears and/or face delivery-associated medical expenses in addition to ongoing support obligations. For low-income fathers with limited incomes, this poses a special problem. Providing the administrative agency/court the authority to forgive all or part of these costs will reduce disincentives to establish paternity in certain cases.

IV-D agencies currently are not encouraged to bring a paternity action forward on behalf of the putative father, even in cases in which the mother is not cooperating with the State in establishing paternity. In some states, fathers have no standing to bring paternity actions at all. If the primary goal is to establish paternity for as many children born out-of-wedlock as possible, IV-D agencies should be able to assist putative fathers as well as mothers in establishing paternity for a non-marital child.

Under the OBRA of 1993 amendments, States are required to have expedited processes for paternity establishment in contested cases and each State must give full faith and credit to determinations of paternity made by others States. In order to further streamline the treatment of contested cases, the proposal provides that States can set temporary support in appropriate cases. This discourages defendants in paternity actions from contesting cases in order to simply delay the payment of support. The proposal also abolishes jury trials for paternity cases. Jury trials are a remnant from the time when paternity cases were criminal in nature. Almost two-thirds of the States still allow jury trials. While rarely requested, jury trials delay the resolution of cases and take a heavy toll on personnel resources. With the advent of modern scientific genetic testing, they serve very little purpose, as almost all cases will ultimately be resolved based on the results of the tests. The proposal also cases certain evidentiary rules, allowing cases to be heard without the need for establishing a foundation for evidence that is normally uncontroverted.

As part of a State's civil procedures for establishment of paternity, each State must:

(1) provide that acknowledgments of paternity create either a rebuttable or conclusive presumption of paternity. If a rebuttable presumption of paternity is created, States must provide that the presumption ripens into a conclusive legal determination with the same effect as a judgment no later than 12 months from the date of signing the acknowledgment. States may, at their option, allow fathers to move to vacate or reopen such judgments at a later date in cases of fraud or if it is in the best interest of the child.

(2) provide administrative authority to the IV-D agency to order all parties to submit to genetic testing in all cases where either the mother or putative father requests a genetic test; and submits a sworn statement setting forth facts establishing a reasonable possibility of the requisite sexual contact, without the need for a court hearing prior to such

an order. (State option remains as to whether to provide this administrative authority in cases where there is a presumed father under State law);

(3) precluded the use of court hearings to ratify paternity acknowledgments;

(4) provide administrative authority to the IV-D agency to enter default orders to establish paternity specifically where a party refuses to comply with an order for genetic testing. (State law continues to determine the criteria, if any, for opening default orders);

(5) advance the costs of genetic tests, subject to recoupment from the putative father (subject to State pauper provisions) if he is determined to be the biological father of the child (Federal funding will continue at 90 percent for laboratory tests for paternity); if the result of the genetic testing is disputed, upon reasonable request of a party, order that additional testing be done by the same laboratory or an independent laboratory at the expense of the party requesting the additional tests;

(6) provide discretion to the administrative agency or court setting the amount of support to forgive delivery medical expenses or limit arrears owed to the State (but not the mother) in cases where the father cooperates or acknowledges paternity before or after a genetic test is completed;

(7) allow putative fathers (where not presumed to be the father under State law) standing to initiate their own paternity actions;

(8) establish and implement laws which mandate, upon motion by a party, a tribunal in contested cases to order temporary support according to the laws of the tribunal's State if: (a) the results of the parentage testing create a rebuttable presumption of paternity; (b) the person from whom support is sought has signed a verified statement of parentage; or (c) there is other clear and convincing evidence that the person from whom support is sought is the particular child's parent;

(9) enact laws which abolish the availability of trial by jury for paternity cases; and

(10) have and use laws that provide for the introduction and admission into evidence, without need for third-party foundation testimony, of pre-natal and post-natal birth-related and parentage-testing bills; and each bill shall be regarded as prima facie evidence of the amount incurred on behalf of the child for the procedures included in the bill.

Paternity Outreach

Paternity establishment is recognized as an important strategy to combat the high incidence of poverty among children born out of wedlock. Yet to date, there has been no cohesive national strategy to educate the public on this issue. As a result, many parents do not understand the benefits of paternity establishment and child support and are unaware of the availability of services. This proposal calls for a broad, comprehensive outreach campaign at the Federal and State level to promote the importance of paternity establishment as a parental responsibility and a right of the children.

A combined outreach and education strategy will build on the Administration's paternity establishment initiative included in last year's budget law, OBRA of 1993, by underscoring the importance of paternity establishment for children born outside of marriage and the message that child support is a two-parent responsibility. States will be asked to expand their point of contact with unwed parents in order to provide maximum opportunity for paternity establishment and to promote the norm that paternity establishment is doing the right thing for their children.

Under the proposal: (1) the Department of Health and Human Services, including the Public Health Service, and in cooperation with the Department of Education, will take the lead in developing a comprehensive media campaign designed to reinforce both the importance of paternity establishment and the message that child support is a "two parent" responsibility; (2) States will be required to implement outreach programs promoting voluntary acknowledgment of paternity through a variety of means, such as the distribution of written materials at schools, hospitals, and other agencies. These efforts should be coordinated with the U.S. Department of Education. States are also encouraged to establish pre-natal programs for expectant couples, either married or unmarried, to educate parents on their joint rights and responsibilities in paternity. At State option, such programs could be required of all expectant welfare recipients; (3) States will be required to make reasonable efforts to follow up with individuals who do not establish paternity in the hospital, providing them information on the benefits and procedures for establishing paternity. The materials and the process for which the information is disseminated is left to the discretion of the States, but States must have a plan for this outreach, which includes at least one post-hospital contact with each parent whose whereabouts are known (unless the State has reason to believe that such contact puts the child or mother at risk); (4) all parents who establish paternity, but who are not required to assign their child support rights to the State due to receipt of AFDC, must, at a minimum, be provided subsequently with information on the benefits and procedures for establishing a child support order and an application for child support services; and

(5) upon approval of the Secretary, Federal funding will be provided at an increased matching rate of 90 percent for paternity outreach programs.

Improving Cooperation Among AFDC Mothers in the Establishment of Paternity

Cooperation standards and good cause exceptions

Currently, cooperating with the IV-D agency in establishing paternity is a condition of eligibility for AFDC and Medicaid recipients. Cooperation is defined as appearance for appointments (including blood tests), appearance for judicial or administrative proceedings, or provision of complete and accurate information. The last standard is so vague that "true" cooperation is often difficult to determine. Research suggests that a greater percentage of mothers know the identity and whereabouts of the father of their child than is reported to the IV-D agency. Better and more aggressive procedures can yield a much higher rate of success in eliciting information about the father from the mother than is currently achieved.

The proposal contains several provisions aimed at significantly increasing cooperation among AFDC mothers while at the same time not penalizing those who have fully cooperated with the IV-D agency but for whom paternity for their child is not established due to circumstances beyond their control. Increased cooperation will result in higher rates of paternity establishment.

Under the proposal:

(1) the new cooperation standards described herein will apply to all applications for AFDC or appropriate Medicaid cases for women with children born on or after 10 months following the date of enactment;

(2) the initial cooperation requirement is met only when the mother has provided the State the following information: (a) the name of the father; and (b) sufficient information to verify the identity of the person named (such as the present address of the person, the past or present place of employment of the person, the past or present school attended by the person, the name and address of the person's parents, friends or relatives that can provide location information for the person, the telephone number of the person, the date of birth of the person, or other information that, if reasonable efforts were made by the State, could lead to identify a particular person to be served with process); (c) if there is more than one possible father, the mother must provide the names of all possible fathers;

(3) the continued cooperation requirement is met when the mother provides the State the following information: (a) additional reasonable, relevant information which the mother can reasonably provide, requested by the State at any point; (b) appearance at required interviews, conference hearings or legal proceedings, if notified in advance and an illness or emergency does not prevent attendance; or (c) appearance (along with the child) to submit to genetic tests;

(4) good cause exceptions will be granted for non-cooperation on an individual case basis only if recipients meet the existing good cause exceptions for the AFDC program.

(5) State IV-D workers must inform each applicant orally and in writing of the good cause exceptions available under current law and help the mother determine if she meets the definition. (Current exemptions for Medicaid eligibility for pregnant women are also maintained.)

Cooperation prior to receipt of benefits

Currently, many local IV-D agencies do not conduct intake interviews at all but rather rely on information (e.g., identity and location of the father) obtained by the IV-A agency. Those IV-D agencies that conduct intake interviews do not schedule them until after the mother has already applied for and been determined eligible to receive AFDC benefits. This practice reduces the incentive of AFDC mothers to cooperate with the IV-D agency in providing complete and accurate information about the father of their child because questions regarding cooperation do not arise until after eligibility for AFDC has been approved and the family is receiving benefits.

The proposal will increase the incidence of paternity establishment by making receipt of benefits conditional upon fulfilling the cooperation requirement; IV-D agencies will have to determine whether the cooperation requirement has been met prior to the receipt of benefits. States will be encouraged, but not required, to facilitate this change in procedure by either co-locating IV-A agencies and IV-D agencies or conducting a single IV-A/IV-D screening or intake interview. AFDC applicants who fail to fulfill the new cooperation requirement will be sanctioned.

(1) Applicants must cooperate in establishing paternity prior to receipt of benefits: (a) using the new cooperation standards, an initial determination of cooperation must be made by the State IV-D agency within 10 days of application for AFDC and/or Medicaid; (b) if the cooperation determination is not made within the specified time-frame, the applicant could not be denied eligibility for the above benefits based on noncooperation pending the determination; (c) once an

initial determination of cooperation is made, the IV-D agency must inform the mother and the relevant programs of its determination; (d) individuals qualifying for emergency assistance or expedited processing could begin receiving benefits before a determination is made.

(2) Failure to cooperate with the IV-D agency will result in an immediate sanction:

(a) sanctions will be based on current law. States are required to inform all sanctioned individuals of their right to appeal the determination.

(b) if a determination is made that the custodial parent has met the initial cooperation requirement and the IV-D agency later has reason to believe that the information is incorrect or insufficient, the agency must: (i) try to obtain additional information; and if that fails (ii) schedule a fair hearing to determine if the parent is fully cooperating before imposing a sanction;

(c) if a mother fails to cooperate and is determined ineligible for benefits, but subsequently chooses to cooperate and takes appropriate action, Federal and State benefits will be immediately reinstated.

(d) if the determination results in a finding of noncooperation and the applicant appeals, the applicant could not be denied benefits based on noncooperation pending the outcome of the appeal. States can set up appeal procedures through the existing IV-A appeals process or through a IV-D appeals process.

(3) States are encouraged to either co-locate IV-A and IV-D offices, provide a single interview for IV-A and IV-D purposes, or conduct a single screening process.

State Paternity Cooperation Responsibilities and Standards

States will be held to new standards of responsibility for determining cooperation and ensuring that information regarding paternity is acted upon in a timely fashion. Under the proposal, if the mother meets this stricter cooperation requirement and provides full information, the burden shifts to the State to determine paternity within one year from the date the mother met the initial cooperation date. This is a shorter time period than what was required by regulation under the Family Support Act of 1988 and under the proposed OBRA of 1993 regulations.

If the State fails to establish paternity within the new specified one-year timeframe, it will lose Federal FFP for those cases. This FFP penalty does not exist under current law, and provides a significant incentive for States to work their incoming paternity cases in a timely fashion. A tolerance level is allowed for cases where paternity cannot be established despite the State's best efforts. Other paternity standards under existing law will be maintained to encourage States to continue to work all new and old IV-D cases.

For all cases subject to the new cooperation requirements: (1) State IV-D agencies must either establish paternity if at all possible or impose a sanction in every case within one year from the date that the initial cooperation requirement is met; or (2) If the mother has met the cooperation requirements and the State has failed to establish paternity within the one year time limit, the State will not be eligible for FFP of the AFDC grant for those cases. (The Secretary will establish by regulation a method for keeping track of those cases. The FFP penalty will be based on an average monthly grant for cases where paternity is not established rather than by tracking individual cases.) The Secretary shall prescribe by regulation a tolerance level, for which there will be no penalty, for cases where paternity cannot be established despite the best efforts of the State. The tolerance level shall not exceed a percentage of the State's mandatory cases that need paternity established in any given year (25 percent in years 1 and 2, 20 percent in years 3, and 4, 15 percent in years 5 and 6, and 10 percent thereafter).

Accreditation of Genetic Testing Laboratories

In 1976 a joint committee of the American Bar Association (ABA) and the American Medical Association (AMA) establishing guidelines for paternity testing. In the early 1980's, the Parentage Testing Committee of the American Association of Blood Banks (AABB), under a grant from the Federal Office of Child Support Enforcement, developed standards for parentage testing laboratories. These standards served as a foundation for an inspection and accreditation program for parentage testing laboratories. In addition, the Parentage Testing Committee developed a checklist for inspectors to use in determining if laboratories are in conformance with the standards required for AABB accreditation. These standards are subject to future revision as the state-of-the-art and experience dictate.

Using accredited laboratories ensures that laboratories do not take shortcuts, employ unqualified personnel, fail to perform duplicate testing or otherwise compromise quality control. Thirty-six of the fifty-four IV-D Child Support Enforcement agencies currently use solely AABB accredited laboratories for paternity testing. Under the proposal, the Secretary will authorize an organization such as the AABB or a U.S. agency to accredit laboratories conducting genetic testing and States will be required to use only accredited laboratories.

State law often fails to keep pace with scientific advances in genetic testing. For instance, while DNA testing for paternity cases is widely accepted in the scientific community, some State laws remain from a time prior to DNA testing. Such State laws may refer only to "HLA" or "blood" testing, so State agencies are unable to contract with laboratories using more modern techniques. Under the proposal, States must amend their laws to accept all accredited test results with the type of tests to be determined by the authorized organization or agency based upon what testing is widely accepted in the scientific community.

(1) The Secretary will authorize an organization or U.S. agency to accredit laboratories conducting genetic testing and the procedures and methods to be used; and

(2) States are required to use accredited labs for all genetic testing and to accept all accredited test results.

Administrative Authority to Establish Orders Based on Guidelines

Establishing paternity alone does not establish an obligation to pay support. An obligation to pay support is only created when the proper authority issues an order that support be paid (i.e., an "award" of support). Sometimes this is done when paternity is established and sometimes not—there are many State variations. States also vary in how they establish an award when someone enters the IV-D system in non-paternity cases. A few States provide administrative authority to establish child support orders. Many States require that a separate court action be brought.

Establishing support awards is critical to ensuring that children receive the support they deserve. Under the proposal, all IV-D agencies will have the authority to issue the child support award. This will vastly simplify and speed-up the process of getting an award in place. Adequate protections are provided to ensure that award levels are fair; the IV-D agency must base the award level on State guidelines and States are provided the flexibility to set up procedural due process protections. These administrative procedures apply to paternity and IV-D cases only. Legal separations and divorces may still be handled through the court process.

States can be exempted from this requirement if they can establish orders as effectively and efficiently through alternative procedures.

(1) States must have and use simple administrative procedures in IV-D cases to establish support orders so that the IV-D agency can impose an order for support (based upon State guidelines) in cases where: (a) the custodial parent has assigned his or her right of support to the state; (b) the parent has not assigned his or her right of support to the State but has established paternity through an acknowledgment or State administrative procedure; or (c) in cases of separation where a parent has applied for IV-D services and there is not a court proceeding pending for a legal separation or divorce. At State option, States may extend such authority to all cases of separation and divorce, but they are not required to do so.

(2) In all cases appropriate notice and due process as determined by the State must be followed.

(3) Existing provisions for exempting States under section 466(d) of the Social Security Act are preserved.

II. Ensure fair award levels

National Commission on Child Support Guidelines

States are currently required to use presumptive guidelines in setting and modifying all support awards but have wide discretion in their development. While the use of state-based guidelines has led to more uniform treatment of similarly-situated parties within a state, there is still much debate concerning the adequacy of support awards resulting from guidelines. This is due to inadequate information on the costs of raising a child by two parents in two separate households and because disagreements abound over what costs (medical care, child care, non-minor and/or multiple family support) should be included in guidelines. The issue is further compounded by charges that individual State guidelines result in disparate treatment between States and encourage forum shopping.

To resolve these issues and ensure that guidelines truly provide and equitable and adequate level of support in all cases, the proposal creates a national commission to study and make recommendations on the desirability of uniform national guidelines or national parameters for setting guidelines.

(1) A twelve-member National Commission on child Support Guidelines will be established no later than March 1, 1995, for the purpose of studying the desirability of a uniform, national child support guideline or national parameters for State guidelines.

(2) The Chairman of the Senate Committee on Finance and the Chairman of the House Committee on Ways and Means shall appoint tow members each, the Ranking Minority Members of such Committee shall appoint one member each, and the Secretary of Health and Human Services shall appoint six members. Appointments to the Commission must include a State IV-D Director and

members or representatives of both custodial and non-custodial parent groups.

(3) The Commission shall prepare a report not later than two years after the date of appointment to be submitted to Congress. The Commission terminates six months after submission of the report.

(4) If the Commission determines that a uniform guideline should be adopted, the Commission shall recommend to Congress a guideline which it considers most equitable, taking into account studies of various guideline models, their deficiencies, and any needed improvements. The Commission shall also consider the need for simplicity and ease of application of guidelines as a critical objective.

In addition, the Commission should study the following:

(1) the adequacy of existing State guidelines

(2) the treatment of multiple families in State guidelines including: (a) whether a remarried parent's spouse's income affects a support obligation; (b) the impact of step and half-siblings on support obligations; and (c) the costs of multiple and subsequent family child raising obligations, other than those children for whom the action was brought;

(3) the treatment of child care expenses in guidelines including whether guidelines should take into account: (a) current or projected work related or job training related child care expenses of either parent for the care of children of either parent; and (b) health insurance, related uninsured health care expenses, and extraordinary school expenses incurred on behalf of the child for whom the order is sought;

(4) the duration of support by one or both parents, including the sharing of post-secondary or vocational institution costs; the duration of support of a disabled child including children who are unable to support themselves due to a disability that arose during the child's minority;

(5) the adoption of uniform terms in all child support orders to facilitate the enforcement of orders by other States;

(6) the definition of income and whether and under what circumstances income should be imputed;

(7) the effect of extended visitation, shared custody and joint custody decisions on guideline levels; and

(8) the tax aspects of child support payments.

Modifications of Child Support Orders

Inadequate child support awards are a major factor contributing to the gap between the amount of child support currently collected versus the amount that could potentially be collected. When child support awards are determined initially, the award is set using current guidelines which take into account the income of the noncustodial parent (and usually the custodial parent as well). Although the circumstances of both parents' (including their income) and the child change over time, awards often remain at their original level. In order to rectify this situation, child support awards need to be updated periodically so that the amount of support provided reflects current circumstances. Recent research indicates that an additional $7.1 billion dollars per year could be collected if all awards were updated (based upon the Wisconsin guidelines).

The Family Support Act of 1988 responded to the problem of inadequate awards by requiring States to review and modify all AFDC cases once every three years, and every non-AFDC IV-D case every three years for which a parent requests a review. Although a good start, there are several shortcomings with current policy.

First, requiring the non-AFDC custodial parent, usually the mother, to initiate review, places a heavy burden on the mother to raise what is often a controversial and adversarial issue. Research indicates that a significant proportion of mothers would rather not "rock the boat" by initiating a review, even though it could result in a higher amount of child support. In order to eliminate this burden on the non-AFDC custodial parent and this inequitable treatment of AFDC and non-AFDC cases, child support awards of non-AFDC children should be subject to automatic review and updating just as current law now provides for AFDC children.

Second, current review and modification procedures are extremely labor intensive, time-consuming, and cumbersome to implement. This problem is particularly pronounced in, although not limited to, States with court-based systems. Improvements in automated systems will help diminish some of the time delays and tracking problems currently associates with review and modification efforts. However, a simplified administrative process for updating awards is also needed for States to handle the volume of cases involved in a more efficient and speedier manner.

(1) States shall have and use laws that require the review of all child support orders included in the State Central Registry once every three years. The review may consist of an exchange of financial information through the State Central Registry. The State shall provide that a change in the support amount resulting from the application of guidelines since the entry of the last order is sufficient reason for modification of a child support obligation without the necessity of showing any other change in circumstances. (States may, at their option, establish a threshold amount not to exceed 10 percent since entry of the last order.) States shall adjust each order in accordance with the guidelines unless both parents decline the adjustment in a writing filed with the State Central Registry.

(2) States may set a minimum time-frame that runs from the date of the last adjustment that bars a subsequent review before a certain period of time elapses, absent other changed circumstances. Individuals may request modifications more often than once every three years if either parent's income changes by more than 20 percent.

(3) States are not precluded from conducting the process at the local or county level. Telephonic hearings and video conferencing are encouraged.

(4) To ensure that all reviews can be conducted within the specified time-frame, States must have and use laws which: (a) provide the child support agency through the State Central Registry administrative power to modify all child support orders and medical support orders, including those orders entered by a court (unless the State is exempted under section 466(d) of the Social Security Act); (b) provide full faith and credit for all valid orders of support modified through an administrative process; (c) require the child support agency to automate the review and modification process to the extent possible; (d) ensure that interstate modification cases follow UIFSA and any amending Federal jurisdictional legislation for determining which State has jurisdiction to modify an order; (e) ensure that downward modifications as well as upward modifications must be made in all cases if a review indicates a modification is warranted; (f) simplify notice and due process procedures for modifications in order to expedite the processing of modifications (Federal statutory changes also); (g) provide administrative subpoena power for all relevant income information; and (h) provide default standards for non-responding parents.

(5) The Secretary of Health and Human Services and the Secretary of the Treasury shall conduct a study to determine if IRS income data can be use to facilitate the modification process.

Distribution of Child Support Payments

Priority of child support distribution

Families are often not given first priority under current child support distribution policies. The proposal will make such policies more responsive to the needs of families by reordering child support distribution priorities, giving States the option to pay current child support directly to families who are recipients and reordering Federal income tax offset priorities.

When a family applies for AFDC, an assignment of support rights is made to the State by the custodial parent. Child support paid (above the first $50 of current support) is retained by the State to reimburse itself and the Federal government for AFDC benefits expended on behalf of that family. When someone goes off public assistance, payments for support obligations above payment of current support (i.e., arrearages) may be made to satisfy amounts owned the State and the family. States currently have discretion to either pay these child support arrearages first to the former AFDC family or to use such arrearage payments to recover for past unreimbursed AFDC assistance. Only about 19 States have chosen to pay the family arrearages first for missed payments after the family stops receiving AFDC benefits.

The proposed change will require all States to pay arrearages due to the family before reimbursing any unreimbursed public assistance owed to the State. Such a change will strengthen a families post-AFDC self-sufficiency. Families often remain economically vulnerable for a substantial amount of time after leaving AFDC; about 40 percent of those who leave return within a year and another 60 percent return within two years. Ensuring that all support due to the family during this critical transition period is paid to the family can mean the difference between self-sufficiency or a return to welfare.

States that have already voluntarily implemented this policy believe that such a policy is more fair to the custodial family who now depends on payment of support to help meet its living expenses. States have also found it difficult to explain to custodial and non-custodial parents why support paid when a family has left welfare should go to reimburse the State arrearages first before arrearages owed the family are paid. If child support is about ensuring the well-being of children, then the children's economic needs should be taken care of before State debt repayment.

Public policy also ought to promote the establishment of two-parent families. Having two parents living together within marriage provides children with more emotional and financial support than having two parents living apart. Under current law, child support arrears are not dischargeable even if the parents marry or reconcile. In these circumstances, the family must pay back itself, or the State, if the family was on AFDC. For families with no AFDC arrearages, such payments are illogical and inefficient; a check

must be written by the family, sent to the IV-D agency, credited against the arrearage amount, and re-issued by the State back to the family. For families with AFDC arrearages, such payments are not re-issued to the family, but are to be used to reduce the State and Federal debt. This can make low income families even poorer. Under the proposal, families who unite or reunite in marriage can have their arrearages suspended or forgiven if the family income is less than twice the Federal poverty guideline. Protections will be included to ensure that marriage (or remarriage) is not undertaken for the sole purpose of eliminating child support arrearages.

(1) States shall distribute payments of all child support collected in cases in which the obligee is not receiving AFDC, including moneys collected through a tax refund offset, in the following priority: (a) to a current month's child support obligation; (b) to debts owed the family (non-AFDC obligations); if any rights to child support were assigned to the State, then all arrearages that accrued after or before the child received AFDC shall be distributed to the family; (c) subject to (2), to the State making the collection for any AFDC debts incurred under the assignment of rights provision of Title IV-A of the Social Security Act; (d) subject to (2), to other States for AFDC debts (in the order in which they accrued); the collecting State must continue to enforce the order until all such debts are satisfied and to transmit the collections and identifying information to the other State;

(2) If the noncustodial and custodial parents unite or reunite in a legitimate marriage (not a sham marriage), the State must suspend or forgive collection of arrearages owed to the State if the reunited family's joint income is less than twice the Federal poverty guideline.

(3) The Secretary shall promulgate regulations that provide for a uniform method of allocation/proration of child support when the obligor owes support to more than one family. All States must use the standard allocation formula.

(4) Assignment of support provisions shall be consistent with (1) above.

Treatment of Child Support for AFDC Families—State option

With the exception of the $50 pass-through, States may not pay current child support directly to families who are AFDC recipients. Instead child support payments are paid to the State and are used to reimburse the State for AFDC benefit payments. Many States have found that both AFDC recipients and noncustodial parents misunderstand and resent child support being used for State debt collection. Under waiver authority, Georgia has undertaken a demonstration to pay child support directly to the AFDC family and a number of other States have expressed interest in this approach. The proposal will allow States the option to pay child support directly to the AFDC family, thereby allowing States to choose the distribution policy that will work best in their State. The AFDC benefit amount is reduced in accordanc with State policy to account for the additional family income. This policy change makes child support part of a family's primary income and places AFDC income as a secondary source of support.

(1) At State option, States may provide that all current child support payments made on behalf of any family receiving AFDC must be paid directly to the family (counting the child support payments as income).

(2) The Secretary shall promulgate regulations to ensure that States choosing this option have available an AFDC budgeting system that minimizes irregular monthly payments to recipients.

III. Collect Awards That are Owed

Overview

Currently, enforcement of support cases is too often handled on a complaint-driven basis with the IV-D agency only taking enforcement action when the custodial parent pressures the agency to take action. Many enforcement steps require court intervention, even when the case is a routine one, and even routine enforcement measures often require individual case processing rather than relying upon automation and mass case processing.

Under the proposal, all States will maintain a central State registry and centralized collection and disbursement capability through a central payment center. State staff will monitor support payments to ensure that the support is being paid and will be able to impose certain administrative enforcement remedies at the State level. Thus, routine enforcement actions that can be handled on a mass or group basis will be imposed through the central State office using computers and automation. States may, at their option, use local offices for cases that require local enforcement actions. State staff thus will supplement, but not necessarily replace, local staff.

The Federal role will be expanded to ensure efficient location and enforcement, particularly in interstate cases. In order to coordinate activity at the Federal level, a National Child Support Enforcement Clearinghouse (NC) will be established to help track parents across State lines. The National Clearinghouse includes a national child support registry, the expanded FPLS and a national directory of new hires. The National Clearinghouse will serve as the hub for transmitting information between States, employers, and Federal and State data bases. Interstate processing of cases will be made easier through the adoption of uniform laws for handling these types of cases.

The proposal includes a number of child support enforcement tools—tools that have been proven effective in the best performing States. Finally, changes in the funding and incentive structure of the IV-D program and changes designed to improve program management and accountability are proposed.

State Role

Central State Registry

Currently, child support orders and records are often scattered through various branches and levels of government. This fragmentation makes it impossible to enforce orders on an efficient and organized basis. Also, the ability to maintain accurate records that can be centrally accessed is critical. Under the proposal, States will be required to establish a Central State Registry for all child support orders established or registered in that State. The registry will maintain current records of all the support orders and work in coordination with the Central Payment Center for the collection and distribution of child support payments. This will vastly simplify withholding for employers. The creation of central State registries was one of the major recommendations of the U.S. Commission on Interstate Child Support and is a concept supported by virtually all child support professionals and advocacy groups.

(1) As a condition of receipt of Federal funding for the child support enforcement program, each State must establish an automated central State registry of child support orders.

(2) The registry must maintain a current record of the following:

(a) all present IV-D orders established, modified or enforced in the State;

(b) all new and modified orders of child support (IV-D and non-IV-D) established by or under the jurisdiction of the State, after the effective date of this provision; and

(c) at either parent's request, existing child support cases not included in the IV-D system on the effective date of the registry.

(3) The State, in operating the child support registry, must:

(a) maintain and update the registry at all times;

(b) meet specified time-frames for submission of local court or administrative orders to the registry, as determined by the Secretary;

(c) receive out-of-State orders to be registered for enforcement and/or modification;

(d) record the amount of support ordered and the record of payment for each case that is collected and disbursed through the central payment center;

(e) conform to a standardized support abstract format, as determined by the Secretary, for the extraction of case information to the National Registry and for matches against other data bases on a regular basis;

(f) program the statewide automated system to extract updates automatically of all case records included in the registry;

(g) provide a central point of access to the Federal new-hire reporting directory and other Federal data bases, statewide data bases, and interstate case activity;

(h) routinely match against other State data bases to which the child support agency has access;

(i) use a uniform identification number, preferably the Social Security Number, for all individuals or cases as determined by the Secretary;

(j) maintain procedures to ensure that new arrearages do not accrue after the child for whom support is ordered is no longer eligible for support or the order becomes invalid (e.g., triggering notices to parents if order does not terminate by its own terms or by operation of law);

(k) use technology and automated procedures in operating the registry wherever feasible and cost-effective;

(l) ensure that the interest or late payment fees charged can be automatically calculated;

(m) ensure that the registry has access to vital statistics or other information necessary to determine the new paternity performance measure. (If automated elsewhere, access to these other data bases should be automated as well); and

(n) ensure that the system is capable of producing a payment history as determined by the Secretary.

Option for integrated state registry

(4) States may, at their option, maintain a unified, integrated registry by connecting local registries through computer linkage. (Local registries must be able to be integrated at a cost which does not exceed the cost of a new single central registry.) Under this option, however, the State and State staff must still perform all of the activities described herein for central registries and must maintain a State Central payment Center for collection and disbursement of payments.

Automated mass case processing and administrative enforcement remedies

In most States, routine enforcement actions, which are necessary in thousands or tens of thousands of cases, are still handled on an individual case basis. Often these actions require court involvement in each individual case or, at the very least, initiation of the routine action at the local level. Such a process by its nature is slow and cumbersome, causing many cases to simply never receive the attention they deserve. A few States, such as Massachusetts, are handling routine enforcement actions by using mass case processing techniques and imposing administrative enforcement remedies through centralized case handling. Computer systems routinely match child support files of delinquent obligors against other data bases, such as wage reporting data and bank account data, and when a match is found can take enforcement action automatically without human intervention. The system automatically notifies the obligors of the actions being taken and offers an appeal process. The vast majority of obligors do not appeal, so the case proceeds routinely and the support is obtained and sent to the families due support.

The use of such mass case processing techniques and administrative remedies have significantly reduced the number of cases where the IV-D agency has to resort to contempt or other judicial measures. This also frees up staff to work paternity cases or other more labor intensive enforcement measures. The Proposal requires all States to develop the capacity to handle cases using mass case processing and the administrative enforcement remedies.

(1) As a condition of State plan approval, the State must have sufficient State staff, State authority and automated procedures to monitor cases and impose those enforcement measures that can be handled on a mass or group basis using computer automation technology. "State staff" are staff that are employed by and directly accountable to the State IV-D agency (private contractors are allowed). (Where States have local staff, this supplements, but does not necessarily replace, local staff. Therefore, local staff are still provided where necessary.)

Specifically the State shall:

(2) monitor all cases within the registry on a regular basis, determining on at least a monthly basis whether the child support payment has been made;

(3) maintain automation capability whereby a disruption in payments triggers automatic enforcement mechanisms;

(4) administratively impose the following enforcement measures without need for a separate court order:

(a) order wages to be withheld automatically for the purposes of satisfying child support obligations, and direct wage withholding orders to employers immediately upon notification by the national directory of new hires;

(b) attach financial institution accounts (post-judgment seizures) without the need for a separate court order for the attachment; (States can, at their option, freeze accounts and if no challenge to the freeze of funds is made, turn over the part of the account subject to the freeze up to the amount of the child support debt to the person or State seeking the execution);

(c) intercept certain lump-sum monies such as lottery winnings and settlements to be turned over to the State to satisfy pending arrearages;

(d) attach public and private retirement funds in appropriate cases, as determined by the Secretary;

(e) attach unemployment compensation, workman's compensation and other State benefits;

(f) increase payments to cover arrearages;

(g) intercept State tax refunds; and

(h) submit cases for Federal tax offset.

(5) In all cases, appropriate notice and due process as determined by the State must be followed but State laws and procedures must recognize that child support arrears are currently treated as judgments by operation of law and reducing amounts to money judgments is not a prerequisite to any enforcement.

Centralized Collection and Disbursement Through a State Central Payment Center

Under current law, payments of support by noncustodial parents or by employers on behalf of noncustodial parents are made to a wide variety of different agencies, institutions and individuals. As wage withholding becomes a requirement for a larger and larger segment of the noncustodial population, the need for one, central location to collect and disburse payments in a timely manner has grown. States vary regarding how the child support payments are routed. In some States, locally distributed child support payments stay at the local level, with the remainder going to the State for distribution. In other States, all the money is transmitted to the State and is then distributed to either the family or to the governmental entity receiving AFDC reimbursement. A few States are beginning to collect and distribute child support payments at the State level.

Collection and distribution practices vary in non-IV-D cases as well. Some States route the money through local clerks or courts. In other States the non-IV-D child support payments flow entirely outside of government, from the obligor or his or her employer directly to the custodial parent.

Under the proposal, payments made in all cases entered in the central registry are processed through a Central Payment Center, run by the State government as part of the Central Registry or contracted to a private vendor. (Parents may opt out of payment through the State Central Payment Center under certain conditions; see p. 29 for further detail.) This eases the burden on employers by allowing them to send withholdings to one location within the State instead of to several county clerks or agencies. In addition, distribution and disbursement is accomplished based on economies of scale, allowing for the purchase of more sophisticated processing equipment than many counties could individually purchase, ensuring speedy disbursement and central accountability in intercounty cases. State governments will be able to credit their AFDIC reimbursement accounts quickly and parents who opt for direct deposit could have their share of the support almost immediately deposited.

(1) Through a fully automated process, the State Central Payment Center must:

(a) serve as the State payment center for all employers remitting child support withheld from wages; and

(b) serve as the State payment center for all non-wage withholding payments through the use of payment coupons or stubs or electronic means, unless the parties meet specified opt-out requirements. States, at their option, may allow cash payments at local offices or financial institutions only if the payments are remitted to the State Central Payment Center for payment processing by electronic funds transfer within 24 hours of receipt.

(2) In fulfilling these obligations, the State Central Payment Center must:

(a) accept all payments through any means of transfer determined acceptable by the State including the use of credit card payments and Electronic Funds Transfer (EFT) systems;

(b) generate bills which provide for accurate payment identification, such as return stubs or coupons, for cases not covered under wage withholding;

(c) identify all payments made to the State Central Payment Center and match the payment to the correct child support case record;

(d) disburse all collections in accordance with priorities as set forth under the proposal;

(e) disburse the child support payments to the custodial parents through a transmission process acceptable to the State, including direct deposit if the custodial parent requests;

(f) provide that each child support payment made by the noncustodial parent is processed and sent to the custodial parent promptly at the time it is received (exceptions by regulation for unidentified payments);

(g) maintain records of transactions and the status of all accounts including arrears, and monitor all payments of support;

(h) develop automatic monitoring procedures for all cases where a disruption in payments triggers automatic enforcement mechanisms;

(i) accept and transmit interstate collections to other States using electronic funds transfer (EFT) technology; and

(3) In order to facilitate the quick processing and disbursement of payments to custodial parents, States are encouraged to use Electronic Funds Transfer (EFT) systems wherever possible.

(4) States must also be able to provide parents up-to-date information on current payment records, arrearages, and general information on child support services available. Use of automated Voice Response Units (VRU) to respond to client needs and questions, the use of high-speed check-processing equipment, the use of high-performance, fully-automated mail and postal procedures and fully automated billing and statement processing are encouraged; the Federal Office of Child Support Enforcement (OCSE) will facilitate private businesses in providing such technical assistance to the States.

(5) States may form regional cooperative agreements to provide the collection and disbursement function for two or more States through one "drop box" location with computer linkage to the individual State registries.

(6) States must enact procedures providing that in child support cases, a change in payee may not require a court hearing or order to take effect and may be done administratively, with notice to both parties.

Eligibility for IV-D Enforcement Services

Under the existing system, child support services are provided automatically to recipients of AFDC, Medicaid and, in some cases, Foster Care Assistance. Other single parent families, however, must seek services on their own by making a written application to the IV-D agency. Further, they must pay an application fee unless the State elects to pay the fee for them. Women may be intimidated from initiating a request for services and many States view the written application requirement as an unnecessary bureaucratic step.

To foster an environment where routine payment of child support is inescapable without placing the burden on the custodial parent to take action, all cases included in

the central registry (that is, all families with new and modified orders for support, all families currently receiving IV-D services and any other family desiring inclusion in the registry) will receive child support enforcement services automatically, without the need for application. However, in situations where compliance with the order is not an issue, parents can opt to be excluded from payment through the central payment center. This essentially carries forward the flexibility provided under existing immediate wage withholding requirements.

(1) All cases included in the State's central registry shall receive child support services without regard to whether the parent signs an application for services. Current child support cases not covered through the IV-D system at the time of enactment could also request services through the State child support agency.

(2) Under no circumstances may a State deny any person access to State child support services based solely on the person's nonresidency in that State or require the payment of any fees by a parent for inclusion in the central registry.

(3) No fees or costs may be imposed on any custodial or noncustodial parent or other individual for application for IV-D child support services; no fees or costs may be imposed on any custodial parent for any child support enforcement services, including collections, provided by the IV-D child support agency. (Non-custodial parents may be charged fees or costs except where prohibited herein.)

Opportunity to opt-out

(4) Parents with child support orders included in the central registry can choose to opt-out of payment through the central payment center if they are not otherwise subject to a wage withholding order (current provisions for exceptions to wage withholding are preserved).

(5) Parents who opt-out must file a separate written form with the agency signed by both parties, indicating that both individuals agree with the arrangement.

(6) If the parents choose to opt-out of wage withholding and payment through the central payment center, the noncustodial parent fails to pay support, and the custodial parent notifies the agency for enforcement action, compliance with be monitored by the State thereafter.

Federal Role

National clearinghouse (NC)

The National Clearinghouse will consist of four components, three of which have direct bearing on improving child support enforcement: the National Child Support Registry, the expanded FPLs, and the National Directory of New Hires. (The National Transitional Assistance Registry is not discussed in this section.) The National Clearinghouse shall operate under the direction of the Secretary of Health and Human Services.

National child support registry

The Family Support Act of 1988 mandated the implementation and operation of a comprehensive, statewide, automated child support enforcement system in every State by October 1, 1995. Statewide automation will help correct some of the deficiencies associated with organizational fragmentation as well as alleviate another problem—ineffective case management. For interstate case processing, the Child Support Enforcement Network (CSENet), currently being implemented, is designed to link together statewide, automated systems for the purpose of exchanging interstate case data among States. While all States will eventually be linked through CSENet, no national directory or registry of all child support cases currently exists. A national registry in combination with statewide automated systems has the potential to greatly improve enforcement nationally, through improved located and wage withholding, and to also improve interstate case processing.

Under the proposal, a National Child Support Registry will be operated by the Federal government to maintain an up-to-date record of all child support cases and to match these cases against other databases for location and enforcement purposes. The primary function of the Registry is to expedite matches with other major databases.

(1) The Federal government will establish a National Child Support Registry that maintains a current record of all child support cases based on an extract of information from each State's Central Registry. The National Registry will:

(a) contain minimal information on every child support case from each State: the name and Social Security Number of the noncustodial parent (or putative father) and the case identification number;

(b) interface with State Central Registries for the automatic transmission of case updates;

(c) match the data against other Federal data bases;

(d) point all matches back to the relevant State in a timely manner; and

(e) interface and match with National Directory of New Hires.

(2) The Secretary shall determine the networking system, after considering the feasibility and cost, which may be any of the following:

(a) building upon the existing CSENet interstate network system;

(b) replacing the existing CSENet;

(c) integrating with the current SSA system; or

(d) integrating with the proposed Health Security Administration's network and data base.

(3) An amount equal to two (2) percent of the Federal share of child support collections made on behalf of AFDC families in the previous year shall be authorized in each fiscal year to fund the National Clearinghouse.

National directory of new hires

A National Directory of New Hires, operated by the Federal government, will be created to maintain an up-to-date data base of all new employees for purposes of determining child support responsibility. Information will come from transmission of the W-4 form, which is already routinely completed or through some other mechanism as the employer chooses. Information from the data base will be matched regularly against the National Registry to identify obligors for automatic income withholding and the appropriate State will be notified of the match. This national directory will provide a standardized process for all employers and interstate cases will be processed as quickly as intraState cases.

Currently, information about employees and their income is reported to State Employment Security Agencies on a quarterly basis. This data is an excellent source of information for implementing wage withholding as well as for locating the noncustodial parent to establish an order. A major drawback, however, is that this data is approximately three- to six-months old before the child support agency has access to it. A significant number of obligors delinquent in their child support change jobs frequently or work in seasonal or cyclical industries. Therefore, it is difficult to enforce child support through wage withholding for these individuals. At least ten States have passed legislation and implemented a process requiring employers to report information on new employees soon after hiring. Several others have introduced legislation for employer reporting.

The problem with continuing on the current path is that each State is taking a slightly different approach concerning who must report, what must be reported, and the frequency of reporting, etc. Also, while improving intraState wage withholding, this approach does little to improve interstate enforcement. The time has come for more standardization as well as expansion through a national system for reporting new hire information. Many employers and the associations which represent them, such as the American Society for Payroll Management, are calling for a centralized, standardized single reporting system for new hire reporting to minimize the burden on the employer community. A National Directory of New Hires will significantly reduce the burden on employers, especially multi-State employers, as well as increase the effectiveness for interstate wage withholding.

(1) The Secretary of Health and Human Services shall operate a new National Directory of New Hires which maintains a current data base of all new employees in the United States as they are hired.

(2) All employers are required to report information based on every new employee's W-4 form (which is already routinely completed) within 10 days of hire to the National Directory:

(a) employers may mail or fax a copy of the W-4 or use a variety of other filing methods to accommodate their needs and limitations, including the use of POS devices, touch tone telephones, electronic transmissions via personal computer, tape transfers, or mainframe to mainframe transmissions;

(b) information submitted must include: the employee's name, Social Security Number, date of birth, and the employer's identification number (EIN);

(3) employers will face fines or civil penalities if they intentionally fail to: comply with the reporting requirements; withhold child support as required; or disburse it to the payee of record within five calendar days of the date of the payroll.

(4) The National Directory of New Hires shall:

(a) match the data base against several national data bases on a periodic basis including:

(i) the Social Security Administration's Employer Verification System (EVS) to verify that the social security number given by the employee is correct and to correct any transpositions;

(ii) the National Child Support Registry (matching to occur at least every 48 hours); and

(iii) the Federal Parent Locate Service (FPLS);

(all cases submitted to the National Child Support Registry and other locate requests submitted by the States shall be periodically cross-matched against the National Directory of New Hires);

(b) notify the State Registry of any new matches within 48 hours including the individual's place of employment so that States can initiate wage withholding for cases where wages are not being withheld currently or take appropriate enforcement action; and

(c) retain data for a designated time period, to be determined by the Secretary.

(5) The State Employment Security Agencies (SESAs) shall submit extracts of their quarterly wage reporting data to the National Directory of New Hires. The SESAs shall utilize a variety of automated means to transmit the data electronically to the National Directory of New Hires. The National Directory shall take appropriate measures to safeguard the privacy and unauthorized disclosure of the wage reporting data submitted by SESAs.

(6) States shall match the hits against their central registry records at least every 48 hours and must send notice to employers (if a withholding order/notice is not already in place) within 48 hours of receipt from the National Directory of New Hires.

(7) A feasibility study shall be undertaken to determine if the New Hire Directory should ultimately be part of the Simplified Tax and Wage Reporting System, or the Social Security Administration's or the Health Security Act-created data bases.

Expanded FPLS

States currently operate State Parent Locator Services (SPLS) to locate noncustodial parents, their income, assets and employers. The SPLS conducts matches against other State databases and in some instance has online access to other State databases. In addition, the SPLS may seek information from credit bureaus, the postal service, unions, and other sources. Location sources may vary from State to State depending on the individual State's law. One location source used by the SPLS is the Federal Parent Locator Service (FPLS). The FPLS is a computerized national location network operated by OCSE which obtains information from six Federal agencies and the State Employment Security agencies (SESAs).

In order to improve efforts to locate noncustodial parents, under the proposal, OCSE will significantly expand the Federal Parent Locate Services and make improvements in parent locator services offered at the Federal and State levels. The FPLS shall operate under the National Clearinghouse.

(1) The OCSE shall expand the scope of State and Federal locate efforts by:

(a) allowing States (through access to the FPLS and the National Child Support Registry) to locate persons who owe a child support obligation, persons for whom an obligation is being established, or persons who are owed child support obligations by accessing:

(i) the records of other State IV-D agencies and locate sources;

(ii) Federal sources of locate information in the same fashion; and

(iii) other appropriate data bases.

(b) requiring the child support agency to provide both ad-hoc and batch processing of locate requests, with ad-hoc access restricted to cases in which the information is needed immediately (such as with court appearances) and batch processing used to troll data bases to locate persons or update information periodically;

(c) for information retained in a State IV-D system, providing for a maximum 48 hours turnaround from the time the request is received by the State to the time information/response is returned; for information not maintained by the State IV-D system, the system must generate a request to other State locate data bases within 24 hours of receipt, and respond to the requesting State within 24 hours after receipt of that information from the State locate sources;

(d) broadening the definition of parent location to include the parents' income and assets;

(e) developing with the States an automated interface between their Statewide automated child support enforcement systems and the Child Support Enforcement Network (CSENet), permitting locate and status requests from one State to be integrated with intraState requests, thereby automatically accessing all locate sources of data available to the State IV-D agency; and

(2) States shall have and use laws that require unions and their hiring halls to cooperate with IV-D agencies by providing information on the residential address, employer, employer's address, wages, and medical insurance benefits of members;

(3) The Secretary shall authorize:

(a) a study to address the issue of whether access to the National Locate Registry should be extended to noncustodial parents seeking the location of their children and whether, if it were, custodial parents fearful of domestic violence could be adequately protected and shall make recommendations to Congress; and

(b) a study to address the feasibility and costs of contracting with the largest credit reporting agencies to have an electronic data interchange with FPLS, accessible by States, for credit information useful for the enforcement of orders, and if the Fair Credit Reporting Act is amended, for establishment and adjustment of orders.

(c) demonstration grants to States to improve the interface with State data bases that show potential as automated locate sources for child support enforcement.

Expanded role of Internal Revenue Service

The Internal Revenue Service (IRS) is currently involved in the child support enforcement program both as a source of valuable information to assist in locating noncustodial parents, their assets and their place of employment, and as a collection authority to enforce payment of delinquent support obligations. In FY 1992, well over one-half of a billion dollars was collected by the IRS on behalf of over 800,000 child support cases. This proposal focuses on strengthening the IRS role in child support enforcement in three areas: enhancing data exchange; expanding the tax refund offset program; and, improving the full collection process.

Enhancing data exchange between IV-D child support and the IRS data

The internal Revenue Code currently provides access to certain tax information used by child support enforcement agencies, including 1099 data. Access to this information greatly enhances State enforcement efforts and the utility of the locate network. Under the proposal, the Secretary of the Treasury will explore the feasibility of simplifying access to this IRS data.

(1) The Secretary of the Treasury shall explore the feasibility of and, as appropriate, institute procedures whereby States can more easily obtain access to IRS data (including 1099 data), if allowed by law, for the purposes of identifying obligors' income and assets. Safeguards must be in place to protect the confidentiality of the information.

IRS tax refund offset

Current statutory requirements for Federal tax refund interception set different criteria for AFDC and non-AFDC cases. One especially inequitable difference is that the tax refund offset is not available to collect past-due child support for non-AFDC children who have reached the age of majority, even if the arrearage accrued during the child's minority. The proposal will eliminate all disparities between AFDC and non-AFDC income tax refund offsets for child support collection purposes.

(1) The disparities between AFDC and non-AFDC cases regarding the availability of the Federal income tax refund offset shall be eliminated, the arrearage requirement shall be reduced to an amount determined by the Secretary, and offsets shall be provided regardless of the age of the child for whom an offset is sought. Time-frames, notice and hearing requirement shall be reviewed for simplification.

IRS full collections

Currently, the IRS full collection process (which may include seizure by the IRS of property, freezing of accounts, and other procedures) is available to States as an enforcement tool in collecting delinquent child support payments. While use of the IRS full collection process could be an effective enforcement remedy, especially in interstate cases, it is currently used only rarely, in part, because the current process is cumbersome and prohibitively expensive from the States' perspective. The IRS and HHS have recently undertaken a study to explore how to improve the IRS full collection process and to make recommendations regarding its expansion. As part of this study, 700 cases were certified to IRS for collection in September, 1993. These cases are being closely monitored and the data obtained will be used to make recommendations for improvement to the IRS Full Collection project, including the establishment of a new fee structure. The proposal will require the Secretary of Treasury to improve the full collection process by establishing a simplified and streamlined process, including the use of an automated collection process for child support debts.

(1) To improve the IRS Full Collection process, the Secretary of the Treasury shall:

(a) simplify the IRS full collection process;

(c) establish procedures to ensure that the process is expeditious and implemented effectively;

(c) explore the feasibility of the IRS using its automated tax collection techniques in child support full collection cases; and

(d) the IRS will not charge an extra submission fee if a State updates the arrears on an open case.

Interstate Enforcement

Currently, many child support efforts are hampered by States' inability to locate noncustodial parents and secure orders of support across State lines. New provisions will be enacted to improve State efforts to work interstate child support cases and make interstate procedures more uniform throughout the country.

Under current law, most States handle their interstate cases through the use of versions of the Uniform Reciprocal Enforcement of Support Act (URESA), promulgated in 1950 and changed in 1952, 1958 and 1968. Using URESA may result in the creation of several child support orders in different States (or even counties within the same state) for different amounts, all of which are valid and enforceable. Interstate income withholding, an administrative alternative to URESA, is not widely used and limits the enforcement remedy of withholding.

Under the proposal, States will be required to adopt verbatim URESA's replacement, the Uniform Interstate Family Support Act (UIFSA). UIFSA ensures that only one State controls the terms of the order at any one time. UIFSA, unlike URESA, includes a comprehensive long-arm jurisdiction section to ensure that as many cases stay in one State as is possible. Direct withholding will allow a State to use income withholding in interstate cases by serving the employer directly without having to go through the second State's IV-D agency. Additionally,

States could quickly obtain wage information from out-of-State employers. Interstate locate through the National Clearinghouse should improve locate capability dramatically, by linking State agencies, Federal locate sources and the new hire data base.

We will also ask Congress to express its sense that it is constitutional to use "child-state" jurisdiction, which if upheld by the Supreme Court, will allow agencies to bring the child support case where the child resides instead of where the noncustodial parent lives if he or she has no ties to the child's state. This extends long arm jurisdiction's reach to all cases instead of just most cases. It would also eliminate arguments and court proceedings regarding jurisdiction.

While all States have implemented immediate wage withholding programs for child support payment, there are significant variances in individual State laws, procedures and forms. Those differences are significant enough to bog down the interstate withholding system. Even within States, forms and procedures may vary, resulting in slow or inaccurate case processing. The proposal will require the Secretary to promulgate regulations defining income and other terms so that income withholding terms, procedures and definitions are uniform. This will improve interstate wage withholding effectiveness and fairness and facilitate a more employer-friendly withholding environment. The net effect of UIFSA, direct and uniform withholding, national subpoenas, interstate lien recognition, interstate communication, and child-State jurisdiction is to almost eradicate any barriers that exist to case processing simply because the parents do not reside in the same state.

To facilitate interstate enforcement efforts, each State must have and use laws, rules and procedures that:

(1) provide for long-arm jurisdiction over a nonresident individual in a child support or parentage case under certain conditions;

(2) require Social Security Numbers of all persons apply for a marriage license or divorce to be listed on the supporting license or decree;

(3) require Social Security Numbers of both parents to be listed on all child support orders and birth certificates;

(4) adopt verbatim the Uniform Reciprocal Enforcement of Support Act (URESA) drafting committee's final version of the Uniform InterState Family Support Act (UIFSA), to become effective in all States no later than October 1, 1995 or within 12 months of passage, but in no event later than January 1, 1996;

(5) give full faith and credit to all terms of any child support order (whether for past-due, currently owned, or prospectively owned support) issued by a court or through an administrative process which has jurisdiction under the terms of UIFSA;

(6) provide that out-of-State service of process in parentage and child support actions must be accepted in the same manner as are in-State service of process methods and proof of service so if service of process is valid in either State it is valid in the hearing State;

(7) require the filing of the noncustodial parent's and the custodial parent's residential address, mailing address, home telephone number, driver's license number, Social Security Number, name of employer, address of place of employment and work telephone number with the appropriate court or administrative agency on or before the date the final order is issued, in addition:

(a) pursue for the purpose of providing sufficient notice in any support related action, other than the initial notice in an action to adjudicate parentage or establish or modify a support order that the last residential address of the party given to the appropriate agency or court is the current address of the party, in the absence of the obligor or obligee providing a new address;

(b) prohibit the release of information concerning the whereabouts of a parent or child to the other parent if there is a court order for the physical protection of one parent or child entered against the other parent;

(8) provide intraState transfers of cases to the city, county, or district where the child resides for purposes of enforcement and modification, without the need for refiling by the plaintiff or re-serving the defendant; require the State child support agency or State courts that hear child support claims to exert statewide jurisdiction over the parties and allow the child support orders and lines to have statewide effort effect for enforcement purposes;

(9) make clear that visitation denial is not a defense to child support enforcement and that nonsupport is not available as a defense when visitation is at issue;

(10) require States to require employers, as a condition of doing business in the State, to respond to requests by out-of-State IV-D agencies for individual income information pertaining to all private, State and local government employees for purposes of establishing and collecting child support.

In addition, the Federal government shall:

(1) make a Congressional finding that child-State jurisdiction is consistent with the Due Process clauses of the Fifth and Fourteenth Amendments, Section 5, the Commerce Clause, the General Welfare Clause, and the Full Faith and Credit Clause of the United States Constitution, so that due process is satisfied when the State where a child is domiciled asserts jurisdiction over a nonresident party, provided that party is the parent or presumed parent of the child in a parentage or child support action;

(a) test the constitutionality of this assertion of child-State jurisdiction by providing for an expedited appeal to the U.S. Supreme Court directly from a Federal court;

(2) provide that a State that has asserted jurisdiction properly retains continuing, exclusive jurisdiction over the parties as long as the child or either party resides in that State or if all the parties consent to the State retaining jurisdiction;

(a) when no State has continuing exclusive jurisdiction when actions are pending in different States, the last State where the child has resided for a consecutive six month period (the home State) can claim to be the State of continuing and exclusive jurisdiction, if the action in the home State was filed before the time expired in the other State for filing a responsive pleading and a responsive pleading contesting jurisdiction is filed in that other State;

(3) provide that a State loses its continuing, exclusive jurisdiction to modify its order regarding child support if all the parties no longer reside in that State or if all the parties consent to another State asserting jurisdiction;

(a) if a State loses its continuing, exclusive jurisdiction to modify, that State retains jurisdiction to enforce the terms of its original order and to enforce the new order upon request under the direction of the State that has subsequently acquired continuing, exclusive jurisdiction;

(b) if a State no longer has continuing jurisdiction, then any other State that can claim jurisdiction may assert it;

(c) when actions to modify are pending in different States, and the State that last had continuing, exclusive jurisdiction no longer has jurisdiction, the last State where the child has resided for a consecutive six month period (the home State) can claim to be the State of continuing, exclusive jurisdiction, if:

(i) a responsive pleading contesting jurisdictional control is filed in a timely basis in the non-home State, and

(ii) an action in the home State is filed before the time has expired in the non-home State for filing a responsive pleading;

(4) provide that the law of the forum State applies in child support cases, unless the forum State must interpret an order rendered in another State, so that the rendering State's law governs interpretation of the order; in cases in which a statute of limitations may preclude collection of any outstanding child support arrearages, the longer of the forum or rendering State's statute of limitations shall apply; and

(5) provide that all employers can be served directly with a withholding order by any State, regardless of the State issuing the order; The Secretary shall develop a universal withholding form that must be used by all States.

In addition: (1) Section 466 of the Social Security Act will be amended to require regulations so that income withholding terms, procedures, forms and definitions of income for withholding purposes are uniform to ensure interstate withholding efficiency and fairness, based on regulations promulgated by the Secretary;

Other Enforcement Measures

Currently, State and Federal enforcement efforts are often hampered by cumbersome enforcement procedures that make even routine actions difficult and time consuming. In order to enable States to take more efficient and effective action when child support is not paid, the proposal requires States to adopt several additional proven enforcement tools and streamline enforcement procedures.

Routinized Lien-Placing Process on Motor Vehicles

Liens have two faces. They are either passive encumbrances on property that entitle the lienholder to money when the property changes owners, or they are proactive collection tools that force the obligor to relinquish the property to satisfy the child support debt. Under current law, States must have and use procedures to impose liens on personal and real property. However, the time consuming and cumbersome nature associated with the case-by-case judicial activity now required to impose liens is a major reason for their limited use in practice. Under the proposal, the process by which liens on motor vehicles are imposed will be made more routinized and efficient, resulting in an increase in child support collected. States will be required to set up a routine lien-placing process on motor vehicle titles, without the necessity of first acquiring writs from courts, on noncustodial parents who are delinquent in paying child support.

Universal wage withholding

Withholding child support directly from wages has proven to be one of the most effective means of ensuring that child support payments are made. Currently, all IV-D orders should generally be in withholding status if the parties have not opted out or a decision maker has not found good cause. IV-D orders entered prior to 1991 in which no one has requested withholding or the obligor

has not fallen behind by one month's worth of support are the only orders that do not have to be in withholding status. Arrearage-triggered IV-D withholding requires prior notice in all but a handful of States. Non-IV-D orders entered after January 1, 1994 are subject to immediate withholding if the two opt-outs are not invoked. Other non-IV-D orders may be in withholding status, depending on if there are arrearages and whether the parties took the appropriate action to impose if the withholding State does not impose it automatically in non-IV-D cases.

While the patchwork of orders subject to withholding is gradually being filled in, one way to speed up the universality of withholding is to require withholding in all cases unless the parties opt out or a court finds good cause. As under current law, if an arrearage of one month of support accrues whether or not there is an opt out, withholding must be implemented; however, it should be implemented automatically without need of further court action in non-IV-D cases as well, and without need for notice prior to withholding in the arrearage-triggered cases. Universalizing withholding (except for opt outs) makes the system equal for the non-IV-D and the IV-D parent. It allows for the immediate implementation of withholding when an obligor begins a new job. Imposing withholding without prior notice gives the States the jump on collection, instead of waiting up to 45 days for resolution. In the very few cases in which withholding might be incorrectly imposed, a hearing will be immediately available to the aggrieved obligor to satisfy due process concerns and to ensure accurate withholding (if a phone call to the agency does not quickly resolve the dispute).

Access to records

Access to current income and asset information is critical to tracking down delinquent noncustodial parents who are trying to escape their responsibilities. The need to petition the courts for information on the address, employer, and income of parents on a case-by-case basis impedes the ability of States to effectively carry out child support enforcement actions. Recognizing the value of timely and systematic access to information, the proposal will require States to make the records of various agencies available to the child support agency on a routine basis, through automated and nonautomated means. In addition, the proposal will require that child support agencies be granted access to specific case-related financial institution records for location or enforcement action.

Reducing fraudulent transfer of assets

A major problem in some child support cases occurs when an obligor transfers his or her assets to someone else to avoid paying support. To protect the rights of creditors, States have enacted laws under the Uniform Fraudulent Conveyance Act and the Uniform Fraudulent Transfer Act to allow creditors to undo fraudulent transfers. Applying such laws to child support will provide equal protection to the support rights of custodial parents as applied to any other creditor and may deter obligors who are considering fraudulent transfer. The proposal will make it easier to take legal steps against parents who intentionally transfer property to avoid child support payment.

License revocations

An effective enforcement tool recently implemented by a number of States is withholding or suspending professional/occupational licenses and, in some States, also standard driver's licenses of noncustodial parents owing past-due child support. States that have added this procedure to their arsenal of enforcement remedies have favorable perceptions about its effectiveness, noting that it has both increased the amount of arrearages collected and served as an incentive for noncustodial fathers to keep current in their monthly child support obligation. Often the mere threat of suspending a license is enough to get many recalcitrant obligors to pay. The proposal requires all States to adopt such laws while allowing State flexibility to tailor due process protections.

Statute of limitations for child support arrearages

Under current law, each State may decide when it no longer has the power to collect old debts. Usually invoking a State statute of limitations is done by the debtor, and is not automatic. Some State statute of limitations for child support debts are as short as seven years. Under the proposal, a uniform and extended statute of limitations for collecting child support debts of 30 years after the child's birth will be required. This ensures that a non-payor is less likely to forever escape payment simply because they have avoided payment in the short-term.

Interest on arrearages

Child support debts are currently at a competitive disadvantage compared to commercial debts. While many States have the authority to apply interest to delinquent support, few routinely do so and thus there is no financial incentive for a noncustodial parent to pay support before paying an interest accruing debt. To raise the priority of child support debts to at least that afforded to other creditors, the proposal will require States to calculate and collect interest or late penalties on arrearages.

Expanded use of credit reporting

Credit Bureaus can be an effective mechanism for collecting information needed to locate parents and establish awards at the appropriate level and for ensuring that child support payments are kept current. Under current law, credit report information may be used for locate and enforcement purposes. Agencies may not use credit reports for establishment or modification purposes, however. States are also not required to report arrearages upon a request from a credit bureau unless the arrearages are in excess of $1,000. (States may report, at State option, when a lesser amount is owed.) This proposal will give IV-D agencies access to all credit bureau information for consideration in establishing, modifying, and enforcing child support orders. Since credit reports are likely to fully disclose income generating activities, such reports can be extremely important in identifying assets and income needed to establish awards. Additionally, requirements for States to report child support arrears of more than one month would encourage noncustodial parents to stay current in their payment of support, because non-payment could jeopardize their credit rating. Many States have improved their credit reporting activities regarding child support arrearages. This proposal will ensure uniformity among the States and prevent any one State from becoming a safe-haven for non-paying parents.

Bankruptcy

Although a noncustodial parent obligated to pay support may not escape the obligation by filing bankruptcy, the ability to collect amounts due is hampered by current bankruptcy practices. One of the difficulties faced is that the filing of a bankruptcy action automatically "stays" or forbids various actions to collect past-due support. In order to continue child support collections, permission from the Bankruptcy Court must be granted to lift the automatic stay. Another obstacle is a requirement that the attorney handling the child support creditor's claim must either be a member of the Federal bar in the jurisdiction where the bankruptcy action is filed, appear by permission, or find alternative representation. In addition, child support obligations are often treated less favorably than other financial obligations such as consumer debts and, under a Chapter 13 bankruptcy proceeding, an individual debtor is allowed to pay off debts over an extended period of time—usually three to five years. Even though the current child support continues and arrearages cannot be forgiven through bankruptcy, the ability to collect these arrearages quickly can be thwarted when, as under current practice, a bankruptcy payment plan could require a different payment arrangement on support arrearages than that imposed by a court or administrative support process.

The proposal will eliminate these types of bankruptcy related obstacles to collecting child support. It will remove the effects of an automatic stay with respect to child support establishment, modification, and enforcement proceedings, require the establishment of a simple procedure under which a support creditor can file their claim with the bankruptcy court, treat unsecured support obligations as a second priority claim status, and require that the bankruptcy trustee recognize and honor an arrearage payment schedule established by a court or administrative decision maker. These changes will facilitate the uninterrupted flow of support to children in the event the obligor files for or enters into bankruptcy.

Federal garnishment

Garnishment of Federal employees salaries and wages for child support was authorized prior to the requirement that all States have and use wage withholding procedures which do not require specific court or administrative authorization. The Federal garnishment statute was not changed to make its procedures consistent with the requirements for all other child support wage withholding. The proposal will simplify the implementation of child support wage withholding by requiring that the same procedures be used for Federal and non-Federal employees. The proposal also allows garnishment of military pay more consistent with other types of garnishable money.

Passports

Collecting child support from persons who have left the country is extremely difficult, even if the United States has a reciprocal agreement with the country in which the noncustodial parent currently resides. If there is no reciprocal agreement with that country, it is often virtually impossible to collect child support from the noncustodial parent. Under the proposal, passports and visas will not be issued for foreign travel for the most egregious cases in which support is owed—those owing over $5,000 in past due support.

In order to enforce orders of support more effectively, States must have and use laws that: (1) systematically impose liens on vehicle titles for child support arrearages using a method for updating the value of the lien on a regular basis or allowing for an expedited inquiry to and response for proof of the amount of arrears; provide an expedited method for the titleholder or the individual owing the arrearage to contest the arrearage

or request a release upon fulfilling the support obligation; the liens shall cover all current and future support arrearages and shall have priority over all other creditors' liens imposed on a vehicle title other than a purchase money security interest; in appropriate cases the agency shall have the power to execute on, seize, sell and distribute encumbered or attached property in accordance with State law;

(2) require the State agency to initiate immediate wage withholding action for all cases for which a noncustodial parent has been located and wage withholding is not currently in effect, without the need for advance notice to the obligor prior to the implementation of the withholding order;

(3) empower child support agencies to issue administrative subpoenas requiring defendants in paternity and child support actions to produce and deliver documents to or to appear at a court or administrative agency on a certain date; sanction individuals who fail to obey a subpoena's command;

(4) provide, at a minimum, that the following records are available to the State child support agency through automated or nonautomated means:

(a) recreational licenses of residents, or of nonresidents who apply for such licenses, if the State maintains records in a readily accessible form;

(b) real and personal property including transfers of property;

(c) State and local tax departments including information on the residence address, employer, income and assets of residents;

(d) publicly regulated utility companies and cable television operators; and

(e) marriages, births, and divorces of residents;

(5) provide, at a minimum, the following records of State agencies are available to the State child support agency: the tax/revenue department, motor vehicle department, employment security department, bureau of corrections, occupational/professional licensing department, secretary of state's office, bureau of vital statistics, and agencies administering public assistance. If any of these State data bases are automated, the child support agency must be granted either online or batch access to the data.

(6) provide for access to financial institution records based on a specific case's location or enforcement need through tape match or other automated or nonautomated means, with appropriate safeguards to ensure that the information is used for its intended purpose only and is kept confidential; a bank or other financial institution will not be liable for any consequences arising from providing the access, unless the harm arising from institution's conduct was intentional;

(7) provide indicia or badges of fraud that create a prima facie case that an obligor transferred income or property to avoid a child support creditor; once a prima facia case is made, the State must take steps to avoid the fraudulent transfer unless settlement is reached;

(8) require the withholding or suspension of professional or occupational licenses from noncustodial parents who owe past-due child support or are the subject of outstanding failure to appear warrants, capiases, and bench warrants related to a parentage or child support proceeding;

(a) the State shall determine the procedures to be used in a particular State and determine the due process rights to be accorded to obligors.

(b) the State shall determine the procedures to be used in a particular State and determine the due process rights to be accorded to obligors.

(b) the State shall determine the threshold amount of child support due before withholding or suspension procedures are initiated.

(9) suspend the driver's licenses, including any commercial licenses, of noncustodial parents who owe past-due child support:

(a) the suspension shall be determined by the IV-D agency, which shall administratively suspend licenses. The State shall determine the due process rights to be accorded the obligor, including, but not limited to, the right to a hearing, stay of the order under appropriate circumstances, and the circumstances under the suspension may be lifted;

(b) the State shall determine the threshold amount of child support due before withholding or suspension procedures are initiated.

(10) extend the statute of limitations for collection of child support arrearages until the child for whom the support is ordered is at least 30 years of age.

(11) calculate and collect interest or late penalties on arrearages (accrued after the date of enactment) for non-payment. (Late penalties may be imposed on a monthly, quarterly, or annual basis.) All such charges must be distributed to the benefit of the child (unless child support rights have been assigned to the State). The Secretary shall establish by regulation a rule to resolve choice of low conflicts.

In addition, Congress shall: (12) amend the Fair Credit Reporting Act to allow State agency access to and use of credit reports for the location of noncustodial parents and their assets and for establishing and modifying orders to the same extent that the State agency may currently use credit reports for enforcing orders;

(13) require reports to credit bureaus of all child support obligations when the arrearages reach an amount equal to one month's payment of child support;

(14) amend the Bankruptcy Code to:

(a) allow parentage and child support establishment, modification and enforcement proceedings to continue without interruption after the filing of a bankruptcy petition; preclude the bankruptcy stay from barring or affecting any part of any action pertaining to support as defined in section 523 of Title 11;

(b) allow child support creditors to file a claim without charge or having to meet special local court rule requirements for attorney appearances in a bankruptcy case or district court anywhere in the United States by filing a simplified form that includes information detailing the child support creditor's representation, and the child support debt, its status, and other characteristics;

(c) require the establishment of a simple procedure under which support creditors can file claims with the bankruptcy court;

(d) give child support creditors priority over certain other unsecured creditors; and

(e) require that the bankruptcy trustee make payments to a child support creditor from the bankruptcy State in accordance with a payment schedule established in a family court or other administrative or judicial proceeding.

(15) amend and streamline Sections 459, 461, 462 and 465 of the Social Security Act and companion laws to make the garnishment of Federal employees and retirees (including military) salaries, wages and other benefits and income consistent with the terms and procedures of the IV-D withholding statute (466(b) of the Social Security Act).

(16) amend laws and procedures to ensure that passports, and visas for persons attempting to leave the country, are not issued if they owe more than $5,000 in child support arrearages. The State Department may match its list of applicant against tax offset files of noncustodial parents with orders who owe more than $5,000;

The Social Security Administration shall be authorized to: (17) provide the State IV-D or Department of Motor Vehicle agency access to electronic verification of Social Security Numbers.

Privacy protection

Historically, child support enforcement agencies have had access to information unavailable to other Federal and/or State agencies because of the special nature of their mission—ensuring that children receive appropriate financial support from their parents. Parents cannot be located and orders cannot be established and enforced unless the State has access to a wide array of information sources which identify places of employment and other information about assets and income. Under current Federal and State regulations and rules, information obtained for child support purposes is protected from unwarranted disclosure. The proposal ensures that privacy safeguards continue to cover all sensitive and personal information by extending such protections to any new sources of information. States are required to ensure that safeguards are in place to prevent breaches of privacy protection for individuals not liable or potentially liable for support and to prevent the misuse of information by those employees and agencies with legitimate access for child support purposes only.

(1) States shall:

(a) extend their data safeguarding State plan requirements to all newly accessible information under the proposal. States shall also institute routine training for State and local employees (and contractors shall be required to do the same for their staff) who handle sensitive and confidential data.

(b) regularly self-audit for unauthorized access or data misuse, and investigate individual complaints as necessary.

(c) have penalties for persons who obtain unauthorized access to safeguarded information or who misuse information that they are authorized to obtain. Supervisors who knew or should have known of unauthorized access or misuse shall also be subject to penalties.

(2) Procedures for protection of tax records should include such protections as:

(a) data matching performed by staff having access only to related data fields necessary to perform child support functions;

(b) controlling access to individual child support computer records by the use of individual passwords; and

(c) monitoring access on a regular basis by use of computerized audit trail reports and feedback procedures.

In addition: (3) All child support enforcement staff shall be kept informed of Federal and State laws and regulations pertaining to disclosure of confidential tax and child support information.

(4) Access to State vital statistics shall be restricted to authorized IV-D personnel.

(5) The Federal government shall ensure that New Hire information is limited to IV-D agency use by authorized persons (as defined under current law).

(6) The Secretary shall issue regulations setting minimum privacy safeguards that States must follow to ensure that only authorized users of personal information have access to it solely for official purposes.

Funding

Federal financial participation and incentives

The current funding structure of the Child Support Enforcement program is comprised of three major components: direct Federal matching, incentive payments to States, and the States' share of child support collections made on behalf of AFDC recipients.

Direct Federal matching, known as Federal financial participation or FFP, provides for 66 percent of most State/local IV-D program costs. A higher rate, 90 percent, is paid for genetic testing to establish paternity and, until October 1, 1995, for comprehensive State wide automated data processing (ADP) systems. The Federal government also pays States an annual incentive based on collections and cost effectiveness equalling 6-10 percent of collections from the Federal share of AFDC-related collections. States must pass on part of the incentive to any local jurisdiction that collected the child support if the State required the jurisdiction to participate in the program's costs.

Currently, States may profit from the IV-D program's funding structure irrespective of their performance. The proposed child support financing reforms are primarily directed at the Federal financial participation and the payment of incentives. Basic FFP will be increased from 66 percent to 75 percent to ensure that all States had a sufficient resource base to operate an efficient and effective program. Incentives will be based on State performance in the areas of paternity establishment, order establishment, collections and cost-effectiveness. Such incentives will ensure that States focus on the results that are expected from the program activities. States and the Federal Government will still share in the reduction in costs resulting from support collections made on behalf of AFDC recipients.

(1) The Federal government will pay 75 percent of State administrative costs. All cases included in the State's Central Registry will be eligible for federal funding.

(2) States are eligible for incentive payments in the following areas:

(a) paternity establishment—earning an increase of up to 5 percentage points in FFP for high paternity establishment rates, as determined by the Secretary; and

(b) overall performance—earning an increase of up to 10 percentage points in FFP for strong overall performance which factors in:

(i) the percentage of cases with support orders established (number of orders compared to the number of paternities established and other cases which need a child support order):

(ii) the percentage of overall cases with orders in paying status;

(iii) the percentage of overall collections compared to amount due;

(iv) cost-effectiveness.

(3) All incentives will be based on a formula to be determined by the Secretary.

(4) All incentive payments made to the States must be reinvested back into the State child support program.

Registry and clearinghouse start-up enhanced FFP

Enhanced funding for the automated central registries and centralized collection distribution systems is critical to enable States to implement these new requirements.

(I) States will receive enhanced FFP at a 80%/20% Federal/State match rate, or at the base 75% FFP plus incentives, whichever is higher, for the planning, design, procurement, conversion, testing and start-up of their full-service, technology-enabled State registries and centralized payment centers. This includes necessary enhancements to the automated child support system to accommodate the proposal.)

(2) For the next 5 years, total Federal payments to States for ADP are capped at $260,000,000, to be distributed among States by a formula set in regulations which takes into account the relative size of State caseloads and the level of automation needed to meet applicable ADP requirements.

State/Federal maintenance of effort

(1) Using a maintenance of effort plan, the Federal government will require States to maintain at least their current level of contribution to the program, representing the State FFP match and any other State funds or receipts allocated to the child support program.

Revolving loan fund

In order to encourage ongoing innovation in the IV-D program, it is proposed that a revolving loan fund be created. The revolving loan fund will allow the Federal government more flexibility in helping States develop and implement innovative practices which have significant effects on increasing collections and ongoing innovation.

(1) The Federal government through OCSE shall provide an authorization of funds of up to $100 million to be made available to States and their subdivisions to be used solely for short-term, high-payoff operational improvements to the State child support program. Projects demonstrating a potential for increases in child support collections will be submitted to the Secretary on a competitive basis. Crieria for determining which projects to fund shall be specified by the Secretary based on whether adequate alternative funding already exists, and whether collections can be increased as a result. Within these guidelines, States shall have maximum flexibility in deciding which projects to fund.

(2) Funding will be limited to no more than $5 million per State or $1 million per project, except for limited circumstances under which a large State undertakes a statewide project, in which case the maximum for that State shall be $5 million for the project. States may supplement Federal funds to increase the amount of funds available for the project and may require local jurisdictions to put up a local match.

(3) Fundng will be available for a maximum of three years based on a plan established with the Secretary. OCSE must expeditiously review and, as appropriate, fund the approved plan. At the end of the project period, recipients must pay funds back to the Revolving Fund out of increased performance incentives.

(4) Beginning with the next Federal fiscal year after the project ends, the Federal government shall offset half of the increase in the State's performance incentives every year until the funds are fully repaid. If the State fails to raise collections that result in a performance incentive increase at the projected attributable level, the funds will be recouped by offsetting the FFP due to a State by a sum equal to one-twelfth of the project's Federal funding, plus interest, over the first twelve quarters beginning with the next fiscal year following the project's completion.

Program management

Dramatically improving child support enforcement requires improved program management at both the State and Federal levels. The proposal includes several provisions designed to lead to better program performance and better services.

Training

From 1979 through the late 1980s OCSE contracted with outside organizations to provide on-site training to States across a broad range of topics. In early 1991, OCSE established the National Training Center within the Division of Program Operations to take over many training functions formerly performed by contractors. The purpose of the Center is to bolster States' training initiatives through curriculum design/development, dissemination of information and materials and, to the extent resources permit, the provision of direct training. While a few States have developed training standards for staff, there is currently no mandate that States have minimum standards for persons involved in the child support program.

Under the proposal, the Federal share of funding for training, technical assistance and research will significantly increase and will be earmarked each year for such things as training, technical assistance, research, demonstrations and staffing studies. Furthermore, States will be required to have minimum standards for training in their State plans. Under the proposal, OCSE will also develop a training program for State IV-D Directors. The IV-D program's complexity and importance to children and family self-sufficiency require that States have experienced and well-trained managers. Experts often point to the leadership experience of IV-D managers as a major factor in a state's performance.

(1) An amount equal to one (1) percent of the Federal share of child support collections made on behalf of AFDC families in the previous year shall be authorized in each fiscal year to fund technical assistance, training, research, demonstrations and staffing studies.

(2) OCSE shall provide a Federal developed core curriculum to all States to be used in the development of State-specific training guides. OCSE shall also develop a national training program for all State IV-D directors.

(3) States must also have minimum standards in their State plans for training, based on the newly develop state-specific training guide, that include initial and ongoing training for all persons involved in the IV-D child support program. The program shall include annual training for all line workers and special training for all staff when laws, policies or procedures change.

(4) In addition, funds under Title IV-D of the Social Security Act shall be made available to States for the development and conduct of training of IV-A and IV-E caseworkers, private attorneys, judges and clerks who need a knowledge of child support to perform their duties but for whom a cooperative agreement does not exist for ongoing child support activities.

Technical assistance

Currently, States complain that they receive very little technical assistance from the Federal government. Indeed, the level of technical assistance provided to State child support enforcement agencies has declined significantly over the past several years because of staff and resource limitations. Aside from the provision of training and publication dissemination, most of the assistance provided is in the nature of problem identification through program reviews.

Under the proposal, OCSE will provide comprehensive direct technical assistance in

a variety of forms to States. In particular, OCSE will take an active role in developing model laws and identifying best practices that States may adopt, reviewing State laws, procedures, policies, and organizational structure, and providing enhanced technical assistance to meet the program's goals. Such provision of technical assistance will be designed to prevent program deficiencies before they occur.

The OCSE shall provide technical assistance to States by: (1) developing model laws and identifying model legislation and "best" State practices that States may follow when changing State laws to meet new Federal requirements;

(2) reviewing State laws, policies, procedures, and organizational structure, including cooperative agreements, as part of the State plan approval process;

(3) providing a State with a written assessment of its program and, when appropriate, identifying areas in which the State is deficient;

(4) providing enhanced technical assistance to States to meet the program's goals; and

Audit and reporting

The Federal statute mandates periodic comprehensive Federal audits of State programs to ensure substantial compliance with all federal requirements. If deficiencies identified in an audit are not corrected, States face a mandatory fiscal penalty of between 1 and 5 percent of the Federal share of the State's AFDC program funding. Once an audit determines compliance with identified deficiencies, the penalty is lifted.

The detail-oriented audit is time-consuming and labor intensive for both Federal auditors and the States. One result is that audit findings do not measure current State performance or current program requirements. States contend that the audit system focuses too much on administrative procedures and processes rather than performance outcomes and results. However, it is widely agreed that efforts to pass the audit have been a significant driving force behind States' improved performance. While two-thirds of the States fail the initial audit, three-fourths of these same States come into compliance after a corrective-action period and avoid the financial penalty.

The proposal will simplify the Federal audit requirements to focus primarily on performance outcomes and require States to conduct self-reviews to assess whether or not all required services are being provided. Federal auditors will assess States' data used to determine performance outcomes to determine if it is valid and reliable and conduct periodic financial and other audits as the Secretary deems necessary. If State self-reviews or the level of grievances/complaints indicates that services are not being provided, OCSE will evaluate the State's program and ascertain the causes for the problems to help States correct the problems. Audit penalties assessed on the basis of deficiencies found with respect to a fiscal year will be waived if the State passes the audit at the end of the next fiscal year.

(1) Audit procedures by the Secretary shall include:

(a) simplifying the Federal audit requirements to focus primarily on performance outcomes;

(b) requiring States to develop their own control systems to ensure that performance outcomes are achieved, while making the results subject to verification and audit;

(2) States shall:

(a) develop internal automated management control reporting systems that provide information to enable States to assess their own performance and employees' workload analysis, on a routine, ongoing basis so that exceptions can be called to the program management's attention;

(b) develop computer systems controls that provide reasonable assurances that computer-based data are complete, valid, and reliable;

(c) in accordance with Federal regulations, annually conduct a self-review to assess whether or not the State meets the program's specified goals, performance objectives and any recently completed staffing studies, as well as ensure that all required services are being provided.

(3) Federal auditors shall:

(a) at a minimum, based up the U.S. Comptroller General's Government Auditing Standards, every 3 years assess the reliability of the computer-processed data (or results provided as a result of the self-review). These audits will: (a) examine the computer system's general and application controls; (b) test whether those controls are being complied with; and (c) test data produced by the system on computer magnetic tape or other appropriate auditing medium to ensure that it is valid and reliable;

(b) if a State has failed a previous audit, continue to evaluate on an annual basis whether the State has corrected the deficiencies identified under (1) above;

(c) if the State self-reviews determine that the Federal requirements are not being met, ascertain the causes for the deficiency/weakness so that States will be able to take better corrective actions; and

(d) if the State's report on the status of grievances/complaints indicates substantial and material noncompliance with the program requirements, then evaluate the State's program.

(e) each State will also be subject to periodic financial audits to ensure that their funds are being allocated and expended appropriately and adequate internal controls are in place which will help ensure that all monies are being safeguarded. The Secretary may conduct such other audits as deemed necessary to ensure compliance.

(4) The Secretary shall promulgate regulations to revise the penalty process for failures to meet the program's performance goals and objectives and/or failure to generate reliable and valid data. Penalties will be imposed immediately after a one year corrective action period.

Director of office of child support enforcement

(1) The individual with responsibility for the day to day operation of the Federal Office of Child Support Enforcement shall have the title of Director instead of Deputy Director.

Staffing study

Insufficient staff levels have been cited as the greatest barrier to effectively processing child support cases. Despite significant State savings from the program, staffing levels have not kept pace with caseloads ever increasing in size and complexity. Comprehensive data on staffing is almost nonexistent. To address this information vacuum, staffing studies will be conducted for each State child support enforcement program, including an assessment of the effects of automation on human resource needs. States can use this information for informed personnel and budgetary decisionmaking.

(1) The Secretary of Health and Human Services or a disinterested contractor shall conduct staffing studies of each State's child support enforcement program. Such studies shall include a review of the automated case processing system and central registry/central payment center requirements and include adjustments to future staffing if these changes reduce staffing needs. Such staffing studies may be periodically repeated at the Secretary's discretion. The Secretary shall report the results of such staffing studies to the Congress and the States.

Expanded Outreach

No manner of child support reform will be truly successful unless parents are aware of and have reasonable access to services. Despite the fact that State child support agencies are currently required to advertise the availability of services, many families remain unaware of the program and still others find that services are not easily accessible.

In addition to the paternity establishment outreach provisions described earlier, the proposal will require each State to develop an outreach plan to inform families of the availability of IV-D services and to provide broader access to services, including initiatives which target the needs of working families and non-English speaking families. The Federal government will aid this effort by developing outreach prototypes and a multimedia campaign which focuses on the positive effects a noncustodial parent's involvement can have on a child's life as well as the detrimental effects of a parent's failure to participate.

(1) In order to broaden access to child support services, each State plan must:

(a) respond to the need for office hours or other flexibility that provide parents opportunity to attend appointments without taking time off of work; and

(b) develop and appropriately disseminate materials in languages other than English where the State has a significant non-English-speaking population; staff or contractors who can translate should be reasonably accessible for the non-English-speaking person provided services.

(2) To aid State outreach efforts, OCSE must:

(a) develop prototype brochures that explain the services available to parents with specific information on the types of services available, the mandated time frames for action to be taken, and all relevant information about the procedures used to apply for services;

(b) develop model public service announcements for use by States in publicizing on local television and radio the availability of child support services;

(c) develop model news releases that States could use to announce major developments in the program that provide ongoing information of the availability of services and details of new programs; and

(d) focus more resources on reaching putative fathers and noncustodial parents through a multimedia campaign that acknowledges positively those who comply and spotlights the detrimental effects on a child of a parent's failure to financially and emotionally participate in the child's life.

Customer accountability

Under current law, OCSE has few requirements regarding how IV-D offices are to interact with the "customer" i.e., the affected family members, and how State agencies should respond to child support customers' complaints. Under the proposal, States will be required to notify custodial parents on a timely basis before all scheduled establishment and modification hearings or conferences. The State agency has 14

days to provide a copy of any subsequent order to the custodial parent. If someone receiving IV-D services feels the services provided were inadequate, he or she may request a fair hearing or a formal review process. Complaint and disposition reports shall be forwarded to the Department of Health and Human Services. These reforms give the "customers," the children's parents acting on behalf of the children, the redress that seems lacking in many States when the system fails to perform adequately. A mandatory grievance system should take care of most complaints, with a back-up right to sue in case the State grievance system inadequately resolves serious deficiencies of the program.

(1) State agencies shall notify custodial parents in a timely manner of all hearings or conferences in which child support obligations might be established or modified;

(2) State agencies shall provide custodial parents with a copy of any order that establishes or modifies a child support obligation within 14 days of the issuance of such order;

(3) An individual receiving IV-D services shall have timely access to a State fair hearing or a formal, internal complaint-review process, according to regulations established by the Secretary, provided that there is no stay of enforcement as a result of the pending request (reports of complaints and dispositions shall also be reported to the Secretary);

(4) It is the intent of Congress that the express purpose of Title IV-D is to assist children and their families in collecting child support owned to them. Individuals who are injured by a State's failure to comply with the requirements of Federal law, including State plan requirements of various titles of the Social Security Act, should be able to seek redress in Federal court. (No specific private cause of action to enforce child support provisions of the law are contained herein because there is already a private cause of action under 42 U.S.C. 1983 to redress State and local officials' violations if Federal child support statutes.)

Effective date

Unless otherwise stated in the Appendix, the amendments made by this Act shall take effect on October 1, 1994.

IV. GUARANTEEING SOME LEVEL OF CHILD SUPPORT-CHILD SUPPORT ENFORCEMENT AND ASSURANCE DEMONSTRATIONS

Improving child support enforcement is absolutely essential if we are going to make it possible for people to move from welfare to work. Single parents cannot be expected to bear the entire financial burden of supporting their children alone. We have to do everything possible to ensure that the non-custodial parent also contributes to the support of his or her child. Still, there will be cases where the support from the non-custodial parent will not be available; for instance, in cases where the non-custodial parent has been laid off from a job or presently has very low income.

Child Support Enforcement and Assurance (CSEA) is a program that will provide a minimum insured child support payment to the custodial parent even when the noncustodial parent was unable to pay. With such a program, a combination of work and child support could support a family out of welfare and provide some real financial security. Unlike traditional welfare, Child Support Enforcement and Assurance will encourage work because it allows single parents to combine earnings with the child support payment without penalty. Also, according to some experts, Child Support Enforcement and Assurance will change the incentives for a mother to get an award in place and it will focus attention on the noncustodial parent as a source of support.

No State currently has a Child Support Enforcement and Assurance program, although the Child Assistance Program (CAP) in the New York State has some similar features. Many States have expressed an interest in trying a Child Support Enforcement and Assurance program, provided that some federal assistance and direction could be provided. Major questions surround such programs—costs, implementation strategies, anti-poverty effectiveness, the effect on AFDC participation, etc. And unless the State really does a good job in enforcement, there is a question about whether such a program lets the noncustodial parent off the hook for payment

State demonstrations will be used to try out Child Support Enforcement and Assurance with States being allowed some State flexibility to try different approaches. Evaluations of the demonstrations will be conducted and used to make recommendations for future policy directions.

(1) Congress will authorize and appropriate funds for three CSEA demonstration programs:

(a) Each demonstration will last seven to ten years. An interim report will be due four years after approval of the demonstration grant.

(b) The Secretary shall determine from the interim reports whether the programs should be extended beyond seven to ten years and whether additional State programs should be recommended, based on various factors that include the economic impact of CSEA on both the noncustodial and custodial parents, the rate of noncustodial parents' child support compliance in cases where CSEA has been received by the custodial parent, the impact of CSEA on work-force participation and AFDC participation, the anti-poverty effectiveness of CSEA, the effect on paternity establishment rates, and any other factors the Secretary may cite.

(c) As part of the demonstrations, some States will have the option of creating work programs so that noncustodial parents could work off the support if they have no income.

(d) The demonstration projects are based on a 90%/10% Federal/State match rate (the higher federal match applies only to administrative costs attributable to the program and that portion of the benefits that does not represent the reduction in AFDC due to receipt of the CSEA benefit.)

(e) The Secretary may terminate the demonstrations if the Secretary determines that the State conducting the demonstrations is not in substantial compliance with the terms of the approved application.

(f) The Secretary may approve both statewide demonstrations and demonstrations that are less than state-wide.

(g) The Secretary shall develop standards for evaluation including appropriate random assignment requirements.

(2) The child support assurance criteria for the State demonstration programs will require that:

(a) the CSEA program be administered by the State IV-D agency, or at State option, its department of revenue; in order to be eligible to participate in the CSEA program, States must ensure that their automated systems that include child support cases are fully able to meet the CSEA program's processing demands, timely distribute the CSEA benefit, and interface with an in-house (or have on-line access to a) central statewide registry of CSEA cases.

(b) States are provided flexibility in designing the benefit scales within the following parameters: benefit levels between $1,500 per year for one child and $3,000 per year for four or more children and benefit levels between $3,000 per year for one child and $4,500 per year for four or more children.

(c) CSEA basic benefit amounts are indexed to the adjusted Consumer Price Index.

(d) CSEA benefits are counted as private child support for the purpose of eligibility for other government programs;

(e) CSEA benefits are deducted dollar for dollar from an AFDC grant, except that in low benefit States, the Secretary shall have discretion to approve applications for programs with less than a dollar for dollar deduction. (Also, where CSEA removes someone from the AFDC grant, States may, at their option, continue eligibility for other related benefits that would have been provided under the AFDC grant.) If a State chooses it may supplement the CSEA basic benefit amount by paying the FMAP contribution of any supplement up to $25, and all of any supplement over $25.

(f) CSEA eligibility is limited to children who have paternity and support established. Waivers from this requirement may be granted only in cases of rape, incest, and danger of physical abuse.

(g) CSEA benefits are treated as income to the custodial parent for State and Federal tax purposes. At the end of the calendar year, the State will send each CSEA recipient a statement of the amount of CSEA provided and private child support paid during the calendar year. If the CSEA benefits exceed the support collected, the difference is taxable as ordinary income.

(h) money collected from the noncustodial parent be distributed first to pay current support, then CSEA arrearages, then family support arrearages (see distribution section of enforcement), then AFDC debts.

(i) in cases of joint and/or split custody, a person is eligible for CSEA if there is a support award that exceeds the minimum insured benefit or the court or agency setting the award certifies that the child support award will be below the minimum CSEA benefit if the guidelines for sole custody were applied to either parent.

V. ENHANCING RESPONSIBILITY AND OPPORTUNITY FOR NON-CUSTODIAL PARENTS

Access and Visitation Grants to States

Children need emotional and social support of both parents, as well as financial support. While it is necessary to clearly distinguish between obligations for financial support and other parent-child interactions, positive parent-child interactions may have an effect on support payment compliance as well as other aspects of child well-being. There is also evidence that many parents need help in understanding how to implement cooperative parenting after a divorce or separation occurs and that children are harmed by the continuation of hostile relationships between their parents. The Family Support Act of 1988 authorized Access demonstration to determine if such projects reduced the amount of time required to resolve access disputes, reduced litigation relating to access disputes, and improved compliance in the payment of support. These demonstrations are coming to a close and there is no provision for the on-going funding of additional projects.

This proposal will supplement State efforts to provide increased support for access and visitation projects which reinforce the need

for children to have continued access to and visitation by both parents.

(1) Grants will be made to States for access and visitation related programs; including mediation (both voluntary and mandatory), counseling, education, development of parenting plans, visitation enforcement including monitoring, supervision and neutral drop off and pick up and development of guidelines for visitation and alternative custody arrangements.

(a) The Administration for Children and Families, Department of Health and Human Services will administer the program.

(b) States will be required to monitor and evaluate their programs; evaluation and reporting requirements will be determined by the Secretary;

(c) States may sub-grant or contract with courts, local public agencies or to private nonprofit agencies to carry out the approved grant work;

(d) Program(s) operating under the grant will not have to be state-wide;

(e) Funding will be authorized as a capped entitlement under section IV–D of the Social Security Act. State grantees will receive funding at the regular FFP program rate. Projects will be required to supplement rather than supplant State funds.

Training and Employment for Noncustodial Parents

[See JOBS/time-Limits and WORK Specifications]

Demonstration Grants for Paternity and Parenting Programs

[See Technical Assistance, Evaluation and Demonstrations Specifications]

EFFECTIVE DATES FOR IMPLEMENTING REFORMS

The following schedule assumes passage of Federal legislation before October 1, 1994. Legislation amending existing Federal statutes outside of Title IV–D of the Social Security Act is effective upon enactment unless stated otherwise. Legislation amending Federal responsibilities under Title IV–D is effective October 1, 1994.

Any State requirement that requires legislation to be effective within two years of the date of enactment of the Federal legislation should have an additional caveat: ". . . or, if the State legislature meets biennially, within three months after the close of its first regular session that begins after enactment of this bill."

Proposed requirement	Effective date
Paternity:	
New paternity measurement	Oct. 1, 1995.
FFP—paternity (see FFP phase in below)	Oct. 1, 1997.
Performance-based incentives	Oct. 1, 1996.
Federally approved State incentives/demos	Oct. 1, 1996.
State/health care provider information	Oct. 1, 1996.
Simplified paternity procedures	Oct. 1, 1995.
State outreach requirements	Oct. 1, 1996.
Enhanced FFP (90 percent) for paternity outreach.	Oct. 1, 1995.
Cooperation and good cause requirements	10 months after enactment.
Accredition of genetic testing labs:	
Fed regulations	Oct. 1, 1995.
Effective for 1st new State contract	Oct. 1, 1995.
Administrative authority for establishment	Oct. 1, 1997.
National commission on child support guidelines:	
Authorized	Oct. 1, 1994.
Named by	March 1, 1995.
Report due	July 1, 1997.
Review and adjustment for cases	Oct. 1, 2000.
Distribution changes:	
New priority/multiple orders	Oct. 1, 1997.
Treatment of child support in AFDC cases.	Oct. 1, 1995.
Tax offset-returns filed	After Jan. 1, 1996.
Central State registry:	
Automated requirements tied to current FSA/OCSE requirements.	Oct. 1, 1995.
Other requirements	Oct. 1, 1997.
Central payment center:	
Centralized collection/distribution start up.	Oct. 1, 1997.
Statewide distribution	Oct. 1, 1998.
Administrative action to change payee	Oct. 1, 1995.
National child support registry:	
Funding	Oct. 1, 1994.
On-line/fully operational	Oct. 1, 1997.
National directory of new hires:	
Funding	Oct. 1, 1995.
On-line for all States	Jan. 1, 1997.
Universal ER reporting requirements	Jan. 1, 1997.
Feasibility study (STAWRS, SSA, AHSA):	
Funded	Oct. 1, 1994.
Let	Dec. 1, 1994.
Due	June 1, 1995.
HHS/IRS decision	Aug. 1, 1995.
Expanded FPLS:	
Funding	Oct. 1, 1994.
On-line/fully operational	Oct. 1, 1997.
Union Hall cooperation—State laws	Oct. 1, 1995.
Studies—Locate and credit reporting agencies:	
Funded	Oct. 1, 1995.
Let	Dec. 1, 1995.
Due	Dec. 1, 1996.
IRS data (IRS and State changes)	Oct. 1, 1995.
IRS tax offset—Effective for returns	After Jan. 1, 1996.
IRS full collection:	
Nonautomated changes	Oct. 1, 1995.
Automated funding	Oct. 1, 1994.
Automated IRS implementation	Oct. 1, 1995.
Interstate enforcement:	
UIFSA (legis. flexible until 1/1/96)	Oct. 1, 1995.
Federal request for information	Oct. 1, 1995.
OCSE distributes form nationwide force effective.	Oct. 1, 1995.
Other State laws	Oct. 1, 1995.
Other enforcement measures:	
State enforcement law changes	Oct. 1, 1995.
Exception: liens and immediate wage withholding in all non-IV–D cases.	Oct. 1, 1997.
Privacy protections:	
Federal regulations	Oct. 1, 1995.
State implementation	Oct. 1, 1996.
Federal financial participation:	
66 to 69 percent	Oct. 1, 1995.
70 to 72 percent	Oct. 1, 1996.
73 to 75 percent	Oct. 1, 1997.
Incentives: Federal reg promulgation	Oct. 1, 1995.
Paternity standard	Oct. 1, 1997.
Overall performance	Oct. 1, 1997.
Enhanced (80 percent) ADP system enhancement:	
Start up	Oct. 1, 1994.
Sunsets	Oct. 1, 1999.
State/Federal maintenance of effort	Oct. 1, 1997.
Revolving loan fund	Oct. 1, 1995.
Training/technical assistance:	
OCSE begins its efforts	Oct. 1, 1994.
Audit and technical assistance:	
Technical assistance funding	Oct. 1, 1994.
Federal audit regulations	Oct. 1, 1995.
State-based audit requirements	Oct. 1, 1996.
Staffing studies funded	Oct. 1, 1994.
Studies completed	Oct. 1, 1996.
Outreach:	
States begin to meet goals	Oct. 1, 1995.
OCSE requirements/funding	Oct. 1, 1995.
Customer Accountability:	
Fair hearings:	
Federal regulations	Oct. 1, 1995.
State implementation	Oct. 1, 1996.
Child support enforcement and assurance (CSEA) demonstrations:	
Fed/State funding for CSEA	Oct. 1, 1995.
State interim reports	Jan. 1, 1999.
State final reports	Oct. 1, 2002–5.
Federal reports to Congress	Apr. 1, 2005.
Federal administrative funding	Oct. 1, 1994.
Federal regulations	Oct. 1, 1995.

IMPROVING GOVERNMENT ASSISTANCE [TITLE VII, TITLE VII]

A. RATIONALIZATION AND SIMPLIFICATION ACROSS ASSISTANCE PROGRAMS

The rationalization and simplification of assistance programs is something of the holy grail of welfare reform—always sought, never realized. The reasons are many: different goals of different programs, varied constituencies, Department differences, divergent Congressional committee jurisdictions, and the inevitable creation of winners and losers from changing the status quo. Yet everyone agrees that recipients, administrators, and taxpayers are all losers from the current complexity. Below are several proposals for reform. The proposals do not make substantial changes in program structures. Rather, the proposals achieve simplification by streamlining administrative processes and by conforming program rules between the AFDC and Food Stamp programs. The proposals modify existing rules that create unnecessary complexity and confusion for program administrators and recipients. The proposal also supports the expansion of Electronic Benefits Transfer (EBT) programs for delivering Federal and State government benefits. Nationwide expansion was recommended by the Vice President's National Performance Review as a means of reducing fraud, streamlining benefit delivery, and saving taxpayers money. No legislative or regulatory provisions are included in the welfare reform proposal specific to the EBT expansion, although the two initiatives are complementary in their commitment to improve government assistance.

1. Resources

(A) General

Current law

The Social Security Act and implementing regulations set a $1,000 limit (or a lower limit at State option) on the equity value of resources that a family may have and be eligible for AFDC. Excluded from consideration as countable resources are the home owned and occupied by the family; an automobile with a maximum equity value of $1,500 (or a lower limit at State option); bona fide funeral agreements with a maximum equity value of $1,500 for each family member (or lower limit set by the State); one burial plot for each family member; and real property for a period of 6 consecutive months (or 9 consecutive months at State option) which the family is making a good faith effort to sell. Under certain conditions, States may establish rules regarding transfer of resources in order to obtain or retain eligibility.

The Food Stamp Act and implementing regulations set a $2,000 limit (or $3,000 for a household with a member age 60 or over) on the value of resources a household may have and participate in the program. The Act does not specify how the value of resources is to be determined, but provides for uniform national eligibility standards for income and resources. State agencies are prohibited from imposing any other standards of eligibility. Households in which each member receives AFDC, SSI, or general assistance from certain programs do not have to pass the food stamp resource eligibility test. Regulations exclude from resources the value of one burial plot per family member and the cash value of life insurance policies. Also excluded is real property which the household is making a good faith effort to sell at a reasonable price and which has not been sold. There is no specific exclusion for burial plans (funeral agreements). Any amount that can be withdrawn from a funeral contract without an obligation to repay is counted as a resource.

Food Stamp law prohibits the transfer of resources within the 3-month period prior to application. A household that knowingly transfers resources for the purposes of qualifying or attempting to qualify for food stamps shall be ineligible to participate in the program for a period of up to one year from the date of discovery of the transfer.

Vision

Both the AFDC and Food Stamps programs serve similar needy populations. Yet, because the rules for treatment of both the amounts and categories of resources are different in each program, resources that meet one program's requirement can result in ineligibility under the other. Both programs have substantially different rules for evaluating the resources of that needy group, forcing welfare administrators to apply different program rules to the same resources in the

same family. The following legislative proposal would reduce the current administrative complexity and confusion for welfare administrators and recipients by providing uniform treatment of assets where appropriate.

Specifications

Require the Secretaries in both Departments to develop uniform resource exclusion policies in the following areas, by October 1, 1996:

(a) Resource Limits: Increase the AFDC resource limit to $2,000 (or $3,000 for a household with a member age 60 or over) to conform to the Food Stamp resource limit.

(b) The Secretary of HHS shall specify in regulations the valuation of an automobile.

(c) Resource Exclusions:

(i) Real Property: Propose legislation to amend the Social Security Act to exclude real property which the AFDC family is making a good faith effort to sell at a reasonable price and which has not been sold, to conform to the Food Stamp policy.

(ii) Cash Surrender Value of Life Insurance Policies: Propose legislation to amend the Social Security Act to totally exclude the cash surrender value of life insurance policies under the AFDC program to conform to the Food Stamp policy.

(iii) Transfer of Resources: Propose legislation to provide that a household that knowingly transfers resources for the purposes of qualifying or attempting to qualify for AFDC shall be ineligible for benefits for a period of up to one year from the date of discovery of the transfer. This proposal conforms to the Food Stamp policy.

Rationale

The administrative complexity that exists in applying certain resource requirements in the AFDC and Food Stamp programs will be greatly reduced under the proposed changes. Welfare administrators will be able to apply the same rules to the same resources for the same family. These conforming changes achieve simplification by streamlining the administrative processes in both programs.

(B) Asset Accumulation—Individual Development Accounts

Current Law

The Social Security Act and implementing regulations set a $1,000 limit (or a lower limit at State option) on the equity value of resources that a family may have and be eligible for AFDC, with only limited exclusions.

The Food Stamp Act and implementing regulations set a $2,000 limit (or $3,000 for a household with a member age 60 or over) on the value of resources a household may have and participate in the Program. Section 13925 of Pub. L. 103-66 of the Omnibus Budget Reconciliation Act provides that the Secretary of Agriculture shall conduct, for a period not to exceed 4 years, projects to test allowing not more than 11,000 households nationwide to accumulate up to $10,000 each in excluded resources. These assets are for later expenditures for a purpose directly related to improving the education, training or employability (including self-employment) of household members, for the purchase of a home for the household, for a change in the household's residence, or for making major repairs to the household's home.

Vision

Welfare reform should include strategies to test the notion that one way out of welfare for some people is through empowering them to start their own businesses and encouraging them to save their earnings to build for the future. During the campaign, the President endorsed the idea of helping welfare recipients help themselves by proposing to increase the number of microenterprises and establish Individual Development Accounts (IDAs). These legislative proposals would promote self-sufficiency by encouraging recipients to accumulate savings, assets and start their own businesses.

An IDA is an optional earnings-bearing, tax-benefitted trust account in the name of one person. An IDA would be held in a licensed, federally-insured financial institution. Withdrawals can be made from the account only for qualified purposes, which include: first home purchase, post-secondary education (college/long-term training), or business development (microenterprises). There would be penalties for non-designated use of the account. Participant eligibility would be determined by the State agency using Federal guidelines. Monies placed into an IDA account by an AFDC and Food Stamp recipient would be disregarded for purposes of determining resource limits, up to $10,000. All income placed into an IDA would be tax deferred. An individual would retain the IDA after leaving welfare, but would still be required to use the resources for specified purposes or would face penalties.

The tax laws will be amended to allow for the establishment of IDAs; DHHS and USDA regulations will set the limit at $10,000; subsidized IDAs will be established on a demonstration basis; unsubsidized IDAs will also be permitted for qualified individuals not involved in a demonstration. Current recipients (and applicants with established IDAs) for both the AFDC and Food Stamp programs can establish IDAs and have their savings and interest excluded. States, at their option, could pursue this approach to promoting self-sufficiency.

Specifications

1. National Unsubsidized IDA Program

(a) At State option, allow IDAs to be established by Federally insured financial institutions to be used exclusively to pay for post-secondary education or training expenses, first-home purchases, or business capitalization where there is a qualified plan. Effective October 1, 1996.

(b) Recipients of Food Stamps and AFDC are eligible for participation in the IDA program. Individuals otherwise eligible for the Earned Income Tax Credit shall be permitted to establish IDAs, but some restrictions apply (specifically see provision (iv) below).

(i) Annual contributions shall not exceed the lesser of $1,000 or 100% of all income, excluding public assistance, with a total account limit of $10,000 per family.

(ii) The total amount in an IDA shall not exceed $10,000.

(iii) If the accounts are established while a family is on AFDC or Food Stamps, the IDA account balance will not count against a family's resource limits. Families who leave the rolls after opening an account can continue the account. If the family re-applies for AFDC or Food Stamps at a later date, their IDA savings and interest, up to $10,000, are excluded.

(iv) If an IDA-eligible individual establishes an IDA while not receiving AFDC or Food Stamps (for example, upon receiving an EITC payment under the subsidized IDA demonstration) and subsequently applies for assistance to either program, the amount in the IDA shall be applied against the resource limits for purposes of determining eligibility.

(c) The penalty for a withdrawal from an unsubsidized IDA for purposes other than those specified will be 10 percent of the amount withdrawn that is includable in income.

2. Subsidized Individual Development Account (IDA) Demonstration

(a) Amend the tax laws to allow States, localities, and community development financial institutions to apply to receive grants to operate 6-year IDA demonstration projects. Project grants will be awarded by the Community Development Bank and Financial Institutions Fund on a competitive basis and must be renewed annually. Authorized levels are $10 million in fiscal year 1997 and 2002 and $20 million for fiscal years 1998-2001. Effective October 1, 1996.

(i) $500 in initial financial assistance will be placed into accounts established for project participants who establish IDAs so banks are willing to set up the accounts. In addition, participant contributions may be subsidized in amounts ranging from $.50 to $4 for each $1 deposited, not to exceed $2,500. Total individual IDA amounts may not exceed $10,000.

(ii) Eligible participants are households with: at least one member eligible for EITC, an adjusted gross income not in excess of $18,000, and a net worth not in excess of $20,000.

(iii) Grantees will maintain a reserve fund to be spent on assisting participants in achieving self-sufficiency, administering the project, and to collect evaluation information.

(iv) Grantees must submit annual reports on the progress of their project.

(v) The Fund will contract for an independent evaluation of individual demonstration projects describing project features, assessing levels of self-sufficiency and benefit reduction achieved, levels of assets accumulated, and their effects.

(vi) The penalty for a non-designated withdrawal from a subsidized IDA will be the total amount of the subsidy and 10 percent of the individual's contribution of the amount withdrawn.

3. Self-Employment/Microenterprise Demonstration

(a) Through a memorandum of understanding, HHS and SBA will jointly develop and administer a minimum 5-year, self-employment/microenterprise demonstration program. Consultation with Agriculture, HUD and Labor is also required. Participants must be persons with incomes below 130 percent of poverty or persons participating in JOBS, WORK or AFDC-only, with the percentage of welfare recipients to be established by the agencies. Local intermediaries (organizations or consortium of organizations) will apply to enter into agreements to demonstrate the program. Authorized amounts shall be $4 million for fiscal years 97 and 02 and $8 million for fiscal years 1998-2001. Effective October 1, 1996.

(i) HHS and SBA, in consultation with public and private organizations, will identify promising program models currently used to provide self-employment and related services to low-income individuals and design a demonstration to evaluate, using a randomized experimental design, at least two types of models with contrasting levels of technical assistance. The agencies may fund up to five other projects with designs that do not lend themselves to a randomized experiment.

(ii) HHS and SBA may provide technical assistance, grants, loan guarantees and loans to intermediaries.

(iii) In selecting intermediaries, SBA and HHS will take into consideration the applicant's record of success, program design, capacity and other criteria.

(iv) Intermediaries must have contracts with the local JOBS agency such that JOBS

and WORK program funds will be used to provide supportive services including training and technical assistance for participants who are welfare recipients.

(v) Preliminary and final effectiveness evaluation reports together with recommendations must be submitted to the President and Congress. A report on barriers is also required. The evaluation study shall take into consideration increase in self-sufficiency, reduced costs of public support, number of businesses and jobs created, cost-effectiveness, and program effectiveness. Early and regular feedback to the participating intermediaries is also specified.

4. Other Legislative Changes

(a) The Social Security Act and the Food Stamp Act will be amended, as appropriate, to comport with the changes in the tax laws. In addition, will be drafted to include the following provisions:

(i) Lump sum income: Non-recurring lump sum income will not be counted for resource purposes in the month of receipt or the following month if put in an IDA.

(ii) The total exclusion for an AFDC assistance unit or Food Stamp household is $10,000.

Rationale

IDA's and other set-asides provide welfare recipients the opportunity to be entrepreneurs in the private sector and accumulate savings for specific purposes. This approach promotes self-sufficiency by empowering them to start their own businesses and encouraging them to save money they earn to build for their future. Additionally, the money saved in IDAs might be used by participants for educational and training purposes, thus saving local program resources.

(C) Microenterprise (Self-Employment)

Current law

Resource Exclusions

Under Federal AFDC policy, except for real property, States may disregard for AFDC purposes income-producing property (as defined by the State) of self-employed individuals. States may also disregard income-producing property owned by a recipient who is not currently employed, but who the State reasonably expects to return to work. Federal regulations as 45 CFR 233.30(a)(3)(xxi) require that States disregard, for AFDC purposes, bona fide loans from any source for any purpose that meet the criteria set out in the State Plan.

Section 5(g)(2) of the Food Stamp Act and implementing regulations at 7 CFR 273.8(e)(4), (5), (6), (9), (15) and (16) exclude "property which annually produces income consistent with its fair market value; property which is essential to the self-employment of a household member; installment contracts for the sale of lands and buildings, if the contract . . . is producing income consistent with fair market value; resources . . . of . . . self-employed persons, which has been prorated as income;" non-liquid assets with liens resulting from business loans; and real or personal property that is needed for maintenance of certain vehicles.

Specifications

(a) Amend the Social Security and Food Stamp Acts to give the respective Secretaries the authority to specify in regulations exclusions necessary for self-employment. Require that these regulations be prepared jointly and demonstrate consistency between the two programs.

(b) Amend the Food Stamp Act to exclude business loans from resources.

Rationale

Current AFDC policy does not permit funds necessary for the operation of a microenterprise to be excluded separately from the general $1,000 resource limit. This restriction discourages recipients from establishing small businesses. By expanding the microenterprise resource exclusions, microenterprise owners will be able to set aside sufficient liquid resources to operate the business.

2. Income issues

Vision

Federal laws or rules frequently disregard a part or the total income of applicants and recipients in determining eligibility and benefits for assistance programs. Often, the same income is treated differently in the AFDC and Food Stamp programs. Such differences are incomprehensible to recipients and difficult to administer.

Our goal is to adopt uniform equitable income disregard policies for the AFDC and Food Stamp programs which are easy to understand, simple to administer and promote work and education.

1. Treatment of Lump Sum Income

Current law

Under Section 402(a)(17) of the Social Security Act, non-recurring lump sum income is considered to be available to meet an AFDC family's current and future needs. If the assistance unit's countable income, because of receipt of lump sum income, exceeds the applicable State need standard, the unit is ineligible for a period determined by dividing the total countable income (including the lump sum) by the need standard.

The Food Stamp Act, at 5(d)(8), excludes from income non-recurring lump sum payments. Such amounts, if not spent in the month received, are treated as resources.

Specifications

For applicants and recipients:

(a) Amend section 402(a)(17) of the Social Security Act (SSA) to exclude non-recurring lump sum payments from income.

(b) Amend both the SSA and FSA to disregard as resources, for one year from the date of receipt, non-recurring lump sum payments that are reimbursements or advanced payments.

(c) Amend both the SSA and the Food Stamp Act (FSA) to disregard the amount of any Federal or State EITC lump sum payments as resources for one year from receipt.

Rationale

Lump sum payments are treated completely differently in the two programs. Considerable simplification for both the clients and workers can be achieved if the policies are consistent. Also, current AFDC policy can result in hardship for families since they are supposed to conserve the payments to meet future living expenses rather than to cover debts and other costs.

2. Treatment of Educational Assistance

Current law

Several laws address the treatment of educational assistance for AFDC. Any educational assistance provided under programs in title IV of the Higher Education Act or the Bureau of Indian Affairs must be disregarded (P.L. 102-325, sec. 479B). A State must disregard payments made for attendance costs under the Carl D. Perkins Vocational and Applied Technology Education Act (P.L. 101-392, sec. 507(a). Under AFDC rules, the State must disregard educational loans and grants that are obtained and used for direct educational expenses, such as tuition and books (233.20(a)(3)(iv)(B). (Any of the educational assistance covering items in the State's need standard is counted as income.) Also, States may disregard all educational assistance as complementary assistance that is for a different purpose than AFDC (233.20(a)(3)(vii)(a)).

Portions of income received under the Job Training Partnership Act and the Higher Education Act are disregarded in the Food Stamp program. By regulation, such educational assistance provided on behalf of the household for living expenses, food, or clothing to the extent that the funds exceed the costs of tuition and mandatory fees are counted as income. (7 CFR 273.9(c)(1)(v); 273(c)(3); 273(c)(4); 273.9(c)(5)(i)(D); and 373.9((c)(10)(xi).

Specifications

(a) Amend the Social Security Act and Food Stamp Act to totally disregard all educational assistance received by applicants and recipients.

3. Earnings of Students

Current law

For a dependent child receiving AFDC, the earned income of a full-time or part-time student (not employed full-time) attending a school, college, or university, or a course of vocational or technical training designed to fit him for gainful employment is disregarded (402(a)(8)(A) of the Social Security Act). At State option, the earned income of a dependent child applying for AFDC may also generally be disregarded. The earnings of minor parents attending school are not excluded.

Effective September, 1994, the Food Stamp program will exclude the earnings of elementary or high school students age 21 and under (FSA 5(d)(5); 7 CFR 273.9(c)(7).

Specifications

(a) Amend the Social Security and Food Stamp Acts to conform Food Stamps to AFDC policy and limit the disregards to elementary and secondary students up to age 19.

4. Irregular Income

Current law

No statutory provisions address irregular income for AFDC. Rules permit States to disregard small, nonrecurring gifts not to exceed $30 per individual per quarter (233.20(a)(3)(iv)(F).

The Food Stamp Act (Sec. 5(d)(2)) requires the exclusion of income of $30 or less in a quarter per household received too infrequently or irregularly to be anticipated. The exclusion does not apply under retrospective budgeting.

Specifications

(a) Amend the Food Stamp Act to conform to AFDC rules to exclude inconsequential income not in excess $30 per individual per quarter.

5. Treatment of JTPA Income

Current Law

For AFDC, the income of a dependent child which is derived from participation in a JTPA program may be disregarded. Earned income may be disregard for a period up to six months per calendar year. Unearned income may be disregarded indefinitely (section 402(a)(8)(A)(v) of the SSA).

Under Food Stamps, training allowances from vocational and rehabilitation programs and JTPA earnings are excluded, except income from on-the-job training programs under section 204(5) of title II. All OJT income of individuals under age 19 and under parental control is excluded. (7 CFR 273.9(b)(1)(iii) and (v); 273.9(c)(10)(v)

Specifications

(a) Amend the Social Security and the Food Stamp Acts to disregard as income all

training stipends and allowances received by a child or adult from any program, including JTPA.

(b) Eliminate targeted earned income disregards so that the earned income from any on-the-job training programs or from a job will be counted after the general earned income disregards are deducted.

6. Supplemental Payments

Current Law

Section 402(a)(28) of the Social Security Act requires those States that deduct income from the need rather than the payment standard (fill-the-gap) now and in July of 1975 to provide a supplemental payment to families who have less disposable income because child support is paid to the child support agency instead of directly to the family.

Food Stamps—No such provision exists in the Food Stamp program.

Specifications

(a) Amend the Social Security Act to remove this provision.

7. Treatment of In-kind Income

Current Law

AFDC rules require earned in-kind income to be counted. As a matter of policy, States may disregard any unearned in-kind income. If the State elects to count unearned in-kind income, the amount counted is limited to the value of the item in the State's need standard.

Under Food Stamps, in-kind benefits such as food, clothing, housing, produce are excluded. (FSA 5(d)(1); 7 CFR 273.9(c)(1)).

Specifications

(a) Amend the Social Security Act to require States to disregard both earned and unearned in-kind income.

8. Treatment of National and Community Service Act Benefits

Current Law

No statutory provision excludes, for purposes of the AFDC program, allowances, stipends and educational awards received by participants in a National Service program established under the National and Community Service Act of 1990, as amended by the National and Community Service Trust Act of 1993.

The Food Stamp program will exclude from income National Service program benefits. The National and Community Service Act, as amended, specifies that the exclusion in section 142(b) of the Job Training Partnership Act (JTPA) applies to National Service program benefits. Section 142(b) of the JTPA provides that payments will not be considered as income for purposes of income transfer and in-kind aid furnished under any Federal or federally assisted program based on need, other than Social Security Act programs.

Specifications

(a) Amend section 402(a)(8)(A) of the Social Security Act to disregard from the income of a family allowances, stipends and educational awards received by volunteers participating in a National Service Program under the National and Community Service Act of 1990, as amended by the National and Community Service Trust Act of 1993.

3. Filing unit

Under current law, the AFDC filing unit must consist of a needy deprived child, its natural or adoptive parent(s), and all natural and adoptive brothers and sisters (including half brothers and sisters) who are living together. The unit's income and resources are used to determine eligibility and the amount of payment. A stepparent is treated the same as a natural or adoptive parent for filing unit purposes in seven States (Nebraska, New Hampshire, Oregon, South Dakota, Utah, Vermont, and Washington). These States have laws of general applicability which hold the stepparent responsible for the children to the same extent as a natural or adoptive parent. In all other States, the stepparent's needs are not included in the unit and his/her income, after certain disregards, are considered available to the unit members.

If there is no parent in the home, then another non-legally responsible relative with whom the child is living may, at his/her option, join the unit and be assisted. Additionally, States may exercise the option of including other individual(s) living in the home as an essential person(s). The essential person's income and resources are used to determine eligibility and amount of payment.

Certain parents and siblings are excluded from the unit: illegal and sponsored aliens, recipients of SSI, foster children, and individuals ineligible due to lump sum income.

1. UP Provisions

Current Law

The Social Security Act at section 407(a) and 407(b) limits AFDC eligibility for two-parent families to those where the principal wage earner is unemployed, and has worked six of the last 13 quarters. "Unemployed" is defined in regulations as working less than 100 hours in a month.

Specifications

(a) Allow States, at their option, to modify, reduce, or eliminate any of the special eligibility requirements for two-parent families (e.g., the 100-hour rule, 30 day unemployment requirements, the work history test, etc.) for both applicants and/or recipients. For States that elect to maintain a 100 hour rule (or a modified hour rule), WORK program participation would not count towards this rule.

(b) Remove the sunset provision that allows for the termination of AFDC–UP in 1998 and make it a permanent program.

(c) The effective date for the above provisions shall be October 1, 1996.

Rationale

Some of the arguments for removing the additional eligibility requirements are that eliminating them would:

Remove the AFDC marriage penalty in which single-parent families have easier access to benefits than married couples;

Improve horizontal equity by treating disadvantaged children the same irrespective of whether they live with one or two parents;

Encourage work, as the current rule limiting labor market attachment would be incongruous in a new transitional welfare program that emphasizes work; and,

Also enhance the simplicity of the system.

Finally, a number of States have sought waivers in this area.

2. Essential Person Provision

Current Law

The Social Security Act at section 402(a)(7) and the implementing regulation at 45 CFR 233.20(a)(2)(vi) permit States, at their option, to include in the AFDC grant benefits for essential persons. Such individuals are not eligible for AFDC in their own right, but their needs are taken into account in determining the benefits payable to the AFDC family because they are considered essential to the well-being of an AFDC recipient in the family. Twenty-two States currently include the option as part of their respective State plans.

(a) Limit the kinds of individuals that a State may identify as essential to individuals providing at least one of the following benefits or services to the AFDC family:

(1) child care which enables a caretaker relative to work full or part-time outside the home;

(2) care for an incapacitated AFDC family member in the home;

(3) child care that enables a caretaker relative to attend high school or GED classes on a full or part-time basis;

(4) child care that enables a caretaker relative to participate in JOBS; and

(5) child care that enables a caretaker relative to receive training on a full or part-time basis.

Rationale

The Social Security Amendments of 1967 provided a specific statutory base for an essential person policy. This policy has two aspects. First, States are permitted to specify those individuals who can be considered essential; second, States must permit the AFDC family to have the final decision as to whether such individuals are in fact essential. Under this policy, States are not required to identify the benefits or services that these essential persons must provide.

In 1989, this policy became contentious. Based in part on an OIG review of certain State practices the Family Support Administration published final regulations which limited State authority to determine categories of individuals who could be considered as essential to the family. These regulations precluded States from covering individuals who did not provide an essential benefit or service to the family. (The permissible categories are the five shown in option 2 above.) However, in 1990 the district court for the Eastern District of Pennsylvania in *Vance v. Sullivan* and the district court for the District of Maine in *McKenney v. Sullivan* held that these regulatory limitations conflict with section 402(a)(7)(A) of the Social Security Act. The courts interpreted this section as providing States with the authority to identify in their State plans the categories of individuals who may be recognized as essential persons. These judicial decisions were not appealed. Consequently, the Department revoked the 1989 regulations and reinstated the prior policy. In order to rationalize the use of the essential person policy, a statutory amendment to section 402(a)(7)(A) is necessary.

3. Stepparent Deeming

Current Law

Section 402(a)(31) of the Social Security Act requires that the income of an AFDC dependent child's stepparent who lives in the same home as the child is counted in the monthly determination of eligibility and the amount of assistance. The statute also requires that the following disregards will be applied in determining the amount of the stepparent's countable income:

The first $90 of the stepparent's gross earned income;

An additional amount for the support of the stepparent and other individuals who live in the home, who are not in the assistance unit, and who the stepparent claims as dependents for Federal income tax purposes. This disregard must equal the State's need standard amount for a family group of the same composition as the stepparent and the other individuals not in the assistance unit;

Alimony and child support payments to individuals not living in the household, and

Amounts actually paid by the stepparent to individuals not living in the home but

who he or she claims as dependents for Federal income tax purposes.

Specification

(a) Amend the Social Security Act to give States the flexibility to increase the amount of the stepparent disregards. This provision shall be effective October 1, 1995.

Rationale

Allowing the disregards to be increased provides incentives for AFDC recipients to marry to improve the stability of the family, and provides an incentive for stepparents to increase their earnings.

4. Optional retrospective budgeting

Current Law

For the AFDC program, the Social Security Act permits States to use retrospective budgeting only for the categories of families required to monthly report. The Food Stamp Act permits States to retrospectively budget cases that are not required to monthly report.

Specifications

(a) Amend the Social Security Act at section 402(a)(13) to delete the clause "but only with respect to any one or more categories of families required to report monthly to the State agency pursuant to paragraph (14),". This technical amendment will make retrospective budgeting optional for States without regard to whether families are required to monthly report.

Rationale

Allowing States to use retrospective budgeting without requiring cases to monthly report will foster consistency between the AFDC and Food Stamp programs, and will give States greater flexibility to administer their programs.

5. Miscellaneous administrative provisions

1. Underpayments

Current Law and Policy

Section 402(a)(22) of the Social Security Act requires State agencies to promptly take all necessary steps to correct any underpayment. Regulations at 45 CFR 233.20(a)(13) limit the issuance of underpayments (both agency and client caused) to current recipients and former recipients who would be currently eligible if the error causing the underpayment had not occurred. As a result of litigation, program policy also permits States to issue underpayments to former recipients who would no longer be currently eligible. The amount of the underpayment is not limited by the number of eligible months covered.

Section 11(e)(11) of the Food Stamp Act provides that benefits are to be restored to a household requesting them if the benefits have been "wrongfully denied or terminated." The period for which benefits are restored is limited to one year prior to the date the State agency either receives a request for restoration from the household or otherwise learns that a loss to the household occurred. The Food Stamp rule (7 CFR 273.17) also prohibits the State agency from restoring benefits for a period longer than 12 months. The rule requires that benefits be restored even if the household is currently ineligible.

Vision

To provide clients with a rational and consistent policy in the processing of underpayments.

Specifications

(a) Amend section 402(a)(22) of the Social Security Act to conform to Food Stamp law by requiring the issuance of agency caused underpayments to current and former recipients for a period not in excess of 12 months from the date that the agency learns about the underpayment.

Rationale

Since clients are responsible for reporting changes in circumstances that affect eligibility and benefits, a 12-month limit on restoring lost benefits due to agency error reinforces positive behavior. The change also achieves consistency between the AFDC and Food Stamp underpayment policies.

2. Recovery of Overpayments Through Federal Tax Intercept

Current Law

Section 402(a)(22) of the Social Security Act requires, as a condition for aid and services to needy families with children, a State plan which must provide that a State agency will promptly take all necessary steps to correct any overpayment to any individual who is no longer receiving aid under the plan. Recovery shall be made by appropriate action under State law against the income or resources of the individual or the family.

Vision

To allow State agencies to recover AFDC program overpayments through the use of a tax intercept program in coordination with the IRS. A 50% match rate to cover administrative costs will be provided.

Specifications

(a) Amend section 402(a)(22)(b) of the Social Security Act to permit State agencies to coordinate with the IRS to intercept Federal Income Tax Returns for the collection of outstanding AFDC overpayments, provided they pursue other means of collection under State law prior to using the Federal Tax intercept program. The tax intercept recovery method would only be used to recover overpayments made to individuals who are no longer receiving aid under the plan.

(b) The administrative costs would have a 50% Federal match rate for State expenses.

Rationale

Currently States have the authority to intercept State tax refunds but are unable to do so if the overpaid individual moves to another State. A Federal system would allow States to collect from individuals, regardless of their State of residence. FNS has been running an IRS tax intercept program as a demonstration project since 1992. The program has proved to be very effective in collecting outstanding overpayments, so much so that FNS has expanded the demonstration every year to include more States. A 50% match for administrative costs supports the Administration's philosophy that the administration of the AFDC program should be an equal Federal/State partnership.

3. Administrative cost structuring for certain social services

Current Law

Section 402(a)(15) of the Social Security Act provides for certain services to be offered and provided promptly (directly or under arrangements with others) to all individuals voluntarily requesting such services. Services will be voluntary and shall not prerequisite to eligibility. This is to be provided to each appropriate relative and dependent child receiving aid and for each appropriate individual (living in the same home as a relative and child receiving aid) whose needs are taken into account in making the eligibility determination.

Vision

Section 403(a)(3) indicates that administrative costs of such services are not matched at 50 percent if the State includes family planning under their Title XX Social Services Block Grant Program. This policy would be amended to allow for administrative matching for counseling and referral activities only.

Specifications

(a) Change Section 403(a)(3), to allow a 50 percent match for counseling and referral activities if they are provided under Title XX.

4. Declaration of citizenship and alienage

Current Law

Section 1137(d) of the Act requires, as a condition of eligibility for assistance, a declaration in writing by the individual (or, in the case of an individual who is a child, by another on his/her behalf) under penalty of perjury, stating whether or not the individual is a citizen or national of the United States, and, if such individual is not a citizen or national of the United States, whether he/she is in a satisfactory immigration status.

Vision

To bring the AFDC program into alignment with Food Stamps by allowing one adult member of an applicant assistance unit to sign the declaration of citizenship or alien status for all members of the unit.

Specifications

(a) Amend the Social Security Act by revising section 1137(d)(1)(A) as follows:

(1)(A) The State shall require, as a condition of an individual's eligibility for benefits under any program listed in subsection (b), a declaration in writing by the individual (or, in the case of an individual who is a child or a second parent in a two-parent unit, by another on the individual's behalf), under penalty of perjury, stating whether or not the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in satisfactory immigration status.

Rationale

The current requirement is administratively burdensome as it requires each adult in the AFDC unit to sign a separate declaration. This proposal will allow the adult payee or principal earner in an assistance unit to declare on behalf of his/her second parent and children, thereby simplifying the application and redetermination process. This proposal would also provide consistency with Food Stamps.

6. Territories

Current Law

Section 1108 of the Social Security Act permits the territories (i.e., Guam, Puerto Rico, and the Virgin Islands) to operate the AABD and AFDC programs; American Samoa is only authorized to operate an AFDC program. Funding for Child Care and Transitional Child Care is provided for under the JOBS limit of entitlement. If the territory elects to operate these programs, it must also have an title IV-E or Foster Care program. The territory must adhere to the same eligibility and payment requirements as the States. The Federal government matches 75 percent of costs; however, funding for the territories is capped. The caps are $82 million for Puerto Rico, $3.8 million for Guam, and $2.8 million for the Virgin Islands. Between 1979 and the present, the caps were increased once, by roughly 13 percent.

Vision

To create realistic funding levels for the territories that are reflective of the current

economy and caseload. A mechanism that will provide occasional adjustments in funding levels will be developed to replace the current burdensome method of petitioning Congress for adjustments. Additionally, Territories will have the option to operate a time-limited system and a WORK program (see specifications under JOBS, TIME LIMITS, AND WORK SECTION) but will not be required to do so.

Specifications

(a) Continue to require the territories to operate the AABD, AFDC (including JOBS supportive services) and Foster Care programs. Amend section 1108 of the Social Security Act to increase the caps by an additional 25 percent and create a mechanism for indexing. The effective date shall be October 1, 1996.

(b) At-Risk child care will not be applied against the cap.

(c) The territories would not be required to operate AFDC-UP programs (effective upon enactment of this act).

(d) The cap shall be adjusted regularly, according to changes in the CPI.

Rationale

The number of public assistance programs funded under the current caps, coupled with only one adjustment to these caps in 15 years, has seriously limited the territories' abilities to provide, let alone increase benefits. Benefit payments above the cap are financed 100 percent by the territories, resulting in situations such as Guam's where the Federal share is roughly 40 percent. Puerto Rico reports that, since 1987, AFDC caseloads have nearly doubled from 98,000 units to 183,000 units. Further, beginning October, 1994, Puerto Rico will be required to extend eligibility to two-parent families. Puerto Rico estimates that an additional 40,000 families will be eligible for AFDC due to this provision. If match rates were determined by formula, as they are in the States, the territories would be eligible for higher match rates. Increasing the cans and providing a mechanism for efficient adjustments to those caps will not only continue to give territories the authority to operate public assistance programs but adequate means to do so as well.

B. REGULATORY REVISIONS

1. Automobile resource limit

Current requirements

The Social Security Act provides for the exclusion of so much of a family member's ownership interest in one automobile as prescribed by the Secretary. That exclusion is set by regulation at $1500 equity value (or a lower limit set by the State) in one vehicle with any excess equity value counted toward the $1,000 AFDC resource limit.

The Food Stamp Act provides for the total exclusion of vehicles that are used over 50 percent of the time for income-producing purposes; annually producing income consistent with their FMV; necessary for long distance travel for work (other than daily commute); used as the household's home; or needed to transport a physically disabled household member. For the following vehicles, the amount of the FMV OVER $4,500 is counted as a resource: one per household (regardless of use); and vehicles used for work, training or education to prepare for work in accordance with food stamp employment and training requirements. For all other vehicles, the FMV over $4,500 or the equity value, whichever is more, is counted as a resource.

Vision

Reliable transportation will be essential to achieving self-sufficiency for many recipients in a time-limited program. Because a dependable vehicle is important to individuals in finding and keeping a job, particularly for those in areas without adequate public transportation, both the AFDC and the Food Stamp programs need as conforming automobile resource policy that supports acquiring reliable vehicles. This proposal would simplify the automobile resource policy by conforming the program rules and reducing the unnecessary complexity and confusion for program administrators in both programs.

Regulatory specifications

(a) Exercise Secretarial authority and amend the regulations to increase the AFDC automobile limit to $3,500 equity value, and subsequently index for inflation.

Rationale

This proposal is a first step toward bringing a level of conformity between the two programs that would eliminate some of the administrative complexity involved with valuing vehicles under varying criteria and would result in greater effectiveness and efficiency in the administration of both programs.

2. Verification

Current Requirements

Food Stamp law and regulations include specific requirements for verification and documentation of information needed for eligibility and benefit determinations. Food Stamp regulations mandate verification of utility and medical expenses (when actual is claimed), identity, residency (address), disability and household composition. In the AFDC program, the Act and regulations do not address how verification is to occur but State procedures have generally conformed to the verification policy outlined in the Federal quality control manual.

Under the Food Stamp Act (FSA) (sections 11(e)(3),(9)) and Social Security Act (Act) (sections 402(a)(25) and 1137), income must be verified through the Income and Eligibility Verification System (IEVS). The State must request wage and benefit information for from the State Wage Information Collection Agency, the Social Security Administration, and the agency administering Unemployment Insurance Benefits. Unearned income information must be requested from the Internal Revenue Service. Both programs are also required by law to verify alien status through the Immigration and Naturalization Service's Systemic Alien Verification for Entitlement system.

Both programs review the accuracy of eligibility decisions and benefit amounts through quality control systems, with the intended result that much information is verified at application and at recertification to avoid errors. States may, in both programs, adopt other verification requirements.

Vision

Federal computer matching and verification requirements are often burdensome for both clients and eligibility staff. Even where States have flexibility, the emphasis on payment accuracy and the potential for fiscal quality control penalties have often resulted in unnecessary documentation, delays in benefits and improper denials and terminations. Yet, to assure the public that their taxes are being spent to serve only those in need, verification will continue to be a critical component of the new system for delivering assistance to families. States must be afforded the flexibility to simplify matching procedures, while assuring program integrity through minimum standards.

Regulatory Specifications

(a) Exercise current Secretarial waiver authority for IEVS and SAVE to give States greater flexibility relative to the selection of alternate sources for matching activities, the elimination of certain matches, the targeting of client groups for matching and follow-up verification, and the modification of time frames for follow-up action on match "hits." Amend the Federal regulations on IEVS and change the ACF review perspective on SAVE (given the absence of regulations in this area) to provide greater latitude on what can be waived and the applicable State justification.

(b) Verification systems and time-frames for action will be included in the State Plan.

Rationale

States will welcome the increased flexibility provided by this proposal and be able to streamline their verification activities, saving time and paperwork. At the same time, the State plan approval process will ensure adequate protection of client rights and program integrity without restricting State flexibility.

NON-CITIZENS PROVISIONS

A. ELIGIBILITY FOR NON-CITIZENS

1. Apply a uniform standard for determining alien eligibility for non-citizens under AFDC Supplemental Security income, and Medicaid

Current law

Assuming they meet all other eligibility requirements, foreign nationals residing in the United States must be lawfully admitted for permanent residence or "permanently residing in the United States under color of law" (PRUCOL) to qualify for benefits of the AFDC, Supplemental Security Income (SSI), or Medicaid programs.

The term PRUCOL applies to certain individuals who are neither U.S. citizens nor aliens lawfully admitted for permanent residence. Aliens who are PRUCOL entered the United States either lawfully in a status other than lawful permanent residence or unlawfully. PRUCOL status is not a specific immigration status but rather includes many other immigration statuses. Under the SSI statute, PRUCOL aliens include those who hold parole status. The AFDC statute defines aliens who have been granted parole, refugee, or asylum status as PRUCOL, as well as aliens who had conditional entry status prior to April 1, 1980. The Medicaid statute uses the term PRUCOL but provides no guidance as to the meaning parole of the term.

In addition to the revisions in the regulations reflecting the interpretation of section 1614(a)(1)(B) of the Social Security Act resulting from the court in the *Berger* and *Sudomir* decisions discussed below, PRUCOL status also is defined in AFDC, SSI and Medicaid regulations as including aliens: who have been placed under an order of supervision or granted asylum status: who entered before January 1, 1972, and continuously resided in the United States since then; who have been granted "voluntary departure" or "indefinite voluntary departure" status; and who have been granted indefinite stays of deportation.

In the case of *Berger v. Secretary, HHS*, the U.S. Court of Appeals for the 2d Circuit in interpreted PRUCOL for the SSI program to include 15 specific categories of aliens and also those aliens whom the Immigration and Naturalization Service (INS) knows are in the country and "does not contemplate enforcing" their departure. SSA follows the *Berger* court's interpretation of the phrase

"does not contemplate enforcing" to include aliens for whom the policy or practice of the INS is not to enforce their departure as well as aliens whom it appears the INS is otherwise permitting to reside in the United States indefinitely. The Medicaid regulations include the same Prucol categories as the SSI regulations.

The *Sudomir v. Secretary, HHS* decision, which focused on AFDC eligibility for asylum applicants, was less expansive. The U.S. Court of Appeals for the 9th Circuit determined that AFDC eligibility would extend only to those aliens allowed to remain in the United States with a "sense of permanence." Applicants for asylum are thus specifically excluded from receiving AFDC benefits by this decision even though they would not necessarily be disqualified for SSI due to the *Berger* decision.

Specifications

(a) Eliminate any reference to PRUCOL as an eligibility category in titles IV, XVI, and XIX of the Social Security Act (the Act). Standardize the treatment of aliens under these titles by identifying in the statute the specific immigration statuses in which noncitizens must be classified by INS in order to qualify to be considered for AFDC, SSI, or Medicaid eligibility. Specifically, provide that only aliens in the following immigration statuses could qualify—lawfully admitted for permanent residence within the meaning of section 101(a)(20) of the Immigration and Nationality Act (INA); residing in the United States with lawful temporary status under sections 245A and 210 of the INA (relating to certain undocumented aliens legalized under the Immigration Reform and Control Act of 1986); residing in the United States as the spouse or unmarried child under 21 years of age of a citizen of the United States, or the parent of such citizen if the citizen is over 21 years of age, and with respect to whom an application for adjustment to lawful permanent resident is pending; or residing in the United States as a result of the application of the provisions listed below: sections 207 of the INA (relating to refugees) or 203(a)(7) of the INA (relating to conditional entry status as in effect prior to April 1, 1980); section 208 of the INA (relating to asylum); section 243(h) of the INA (relating to a decision of the Attorney General to withhold deportation); section 244 of the INA (relating to a decision of the Attorney General to suspend deportation); and any other provision of the INA, provided that: (i) the Attorney General determines that the continued presence of an alien within a class of aliens serves a humanitarian or other compelling public interest, and (ii) the Secretary of HHS determines that such interest would be further served by permitting such alien of such class to be potentially eligible for benefits under titles IV, XVI, and IX (e.g., certain aliens granted parole status).

(b) The proposal would continue the eligibility of those aliens eligible for AFDC, SSI, or Medicaid on the effective date of the amendment who began their periods of eligibility before enactment for as long as they remain continuously eligible.

(c) The proposal would also allow State and local programs of assistance to utilize the same criteria for eligibility.

Rationale

Some aliens currently considered PRUCOL did not enter the United States as immigrants under prescribed immigration procedures and quotas, but entered illegally. Others entered legally under temporary visa but did not depart. The courts have determined some of these aliens to be eligible for benefits under the definition of PRUCOL, even though such individuals have not received from INS a deliberate immigration decision and status for permanent presence in the United States. In essence, many of these aliens are similar to illegal aliens except that they have been caught, which under current law can ironically improve an alien's situation in terms of benefit eligibility. That is, if they are caught, INS will likely grant them one of the "PRUCOL statuses"—such as voluntary departure or deferred action—which currently allows them to be eligible for SSI, AFDC, and/or Medicaid. If they are not caught, they are simply undocumented and are not eligible for any benefits other than emergency medical services. Therefore, it is reasonable to restrict AFDC, SSI, and Medicaid eligibility to specific categories of aliens who have entered the United States lawfully or who are permitted to remain in the U.S. indefinitely and are eligible to obtain permanent resident status.

Determining which aliens must be considered for eligibility for Social Security Act programs has become excessively confusing due to judicial actions, and it is subject to ongoing challenge in the courts. This confusion—characterized by the different treatment by different programs of similar individuals—would be remedied by establishing in statute a uniform definition of alien eligibility. The proposal would provide such a uniform definition by listing the immigrant statutes and specifically citing the provisions of the INA under which they are granted, thereby eliminating the ongoing uncertainty about the precise scope of the eligibility conditions and potential inconsistencies regarding alien eligibility in the three programs. Due to the complexities of immigration statuses there are some groups of aliens which can not be defined unequivocally in statute. For example, some aliens are paroled into the U.S. for humanitarian purposes and are effectively permitted to remain indefinitely. Others are paroled into the U.S. for a very limited period of time—typically a matter of weeks—for specific purposes (e.g., to testify at a trial). The proposal would permit the Attorney General to identify those classes of aliens within certain immigration categories that are allowed to remain in the U.S. due to humanitarian or other compelling public interest reasons. In turn, the Secretary of HHS would be granted authority to determine whether those classes of aliens identified by the Attorney General would be potentially eligible for benefits.

The Food Stamp program has avoided similar problems because the categories of aliens eligible for assistance under the program have been specifically listed in law. This proposal seeks to do the same for AFDC, SSI, and Medicaid. The proposal would save administrative resources and costs. The case development required to determine if an alien is considered PRUCOL generally is time-consuming because SSA and State AFDC and Medicaid agencies must verify the alien's status with INS. In many cases, an alien's status as PROCOL must be re-verified annually.

B. SPONSOR-TO-ALIEN DEEMING

Current Law: Under immigration law and policies, most aliens lawfully admitted for permanent residence and certain aliens paroled into the United States are required to have sponsors.

As a condition of entry as a lawful permanent resident, almost all immigrants must satisfy the admitting officer that they are not likely to become a public charge in the United States. For many immigrants, this requirement is met by having a relative who is a U.S. citizen or legal permanent resident agree to "sponsor" the immigrant. Sponsors sign affidavits of support or similar agreements provided by the Department of State or the Immigration and Naturalization Service affirming that they will be responsible for supporting the immigrants and ensuring that he immigrants will not become public charges. However, these pledges are not enforceable and, by themselves, have no effect on whether the immigrants can qualify for public assistance. Therefore, the Supplemental Security Income (SSI), Aid to Families with Dependent Children (AFDC), and the Food Stamp program apply rules that limit sponsors' shifting their responsibilities to the programs by deeming a portion of a sponsor's income and resources as being available to the immigrant for a particular period of time. The affidavit of support informs the sponsor and the immigrant of the deeming rules that will be applied to the immigrant by the SSI, AFDC, and Food Stamp programs.

Specifically, sections 1614(f)(3), 1621(a), and 415 of the Social Security Act provide that in determining SSI and AFDC eligibility and benefit amount for an alien, his sponsor's (and sponsor's spouse's) income and resources are deemed to the alien for 3 years after the alien's entry into the United States. Public Law 103-152 extends the period of sponsor-to-alien deeming in the SSI program from 3 to 5 years for those applying for benefits beginning January 1, 1994 and ending October 1, 1996. For the SSI program, these deeming provisions do not apply to an alien who becomes blind or disabled after entry into the U.S. The Food Stamp program currently provides for a three-year sponsor-to-alien deeming period. Refugees are exempt from the deeming rules under all three programs. Immigration law provides generally that an alien who has resided continuously in the United States for at least 5 years after being lawfully admitted for permanent residence may file an application for U.S. citizenship.

Specifications

(a) Make permanent the five year sponsor-to-alien deeming under the SSI program. Extend from three to five years sponsor-to-alien deeming under the AFDC and Food Stamp programs.

(b) For the period beginning with six years after being lawfully admitted for permanent residence in the U.S. and until a sponsored immigrant attains citizenship status, no sponsored immigrant shall be eligible for benefits under the AFDC, SSI, and Food Stamp programs, unless the annual income of the immigrant's sponsor is below the most recent measure of U.S. median family income.

"Annual income" of the sponsor shall include the most recent measure of annual adjusted gross income (AGI) of the immigrant's sponsor, and the AGI of the sponsor's spouse and dependent children, if any.

"Median family income" shall be based on the most recent Bureau of the Census measure for U.S. median family income for all families, updated by the most recent measure of change in the Consumer Price Index (CPI-U).

(c) Each year the Secretary of HHS shall publish in the Federal Register the median family income amount that will be used to determine the eligibility of sponsored immigrants for the AFDC, SSI, and Food Stamp programs. This measure will be based on the

most recent income data from the Current Population Survey (CPS), published by the Bureau of the Census.

(d) Allow State and local programs of assistance to disqualify from participation in general assistance any alien who is disqualified from participation in the SSI, AFDC, and Food Stamp programs due to sponsor-to-alien deeming.

(e) Effective with respect to applications filed and reinstatements of eligibility following a month or months of ineligibility on or after October 1st 1994.

(f) Exempt from sponsor-to-alien deeming under the Food Stamp program any sponsored alien who becomes blind or disabled after entry into the U.S. and becomes eligible for SSI.

(g) Raise the Food Stamp resource limit under sponsor-to-alien deeming to conform with the general resource limit under Food Stamps.

(h) Exempt from sponsor-to-alien deeming under SSI, AFDC, and Food Stamps any sponsored immigrant whose sponsor is receiving AFDC or SSI benefits.

(i) Allow the Secretaries of HHS and Agriculture—after consultation and coordination with each other—to alter or suspend the sponsor-to-alien deeming provisions on an individual case basis where it is determined that application of the standard sponsor-to-alien deeming provisions would be inequitable under the circumstances (e.g., if the sponsor has physically abused the sponsored immigrant).

Rationale

The number of immigrants entering the U.S. has been increasing recently and there has been a rapid rise in the number of immigrants receiving benefits—particularly SSI benefits. For example, the number of immigrants who received SSI benefits in December 1992 was more than double the number who received benefits in December 1987. Over a third of all aged legal permanent residents on the SSI rolls in December 1993 came onto the rolls within 12 months after their 3-year sponsor-to-alien deeming period ended, indicating that the deeming provision is instrumental in delaying alien eligibility for SSI. Maintaining (under SSI) and extending (under AFDC and Food Stamps) the deeming period to 5 years for lawfully admitted permanent residents for whom an affidavit of support has been signed serves to enforce the pledge made by a sponsor that the immigrant will not become a public charge and avoids increases in benefit program costs which would otherwise occur as a result of increasing immigrant use of welfare benefits. Requiring a sponsor that is in the top half of the income distribution in the U.S. to continue to be financially responsible for a sponsored immigrant beyond the 5 year deeming period maintains the integrity of these welfare programs which are intended to help the poorest of the poor.

For example, under the SSI program, many elderly immigrants are sponsored by their children who have signed affidavits of support. It seems equitable to require the children to continue to support their relatives for the 5 year deeming period, rather than allow the parents to obtain welfare entitlement benefits solely on the basis of age, particularly if the sponsors are financially able to continue supporting the immigrants they have sponsored. Sponsors generally have significant income and resources to support their alien relatives. Once the 5 year period has ended, it is equitable to continue requiring the sponsor in the top half of the income distribution to be financially responsible for the well-being of the sponsored immigrant. Nothing in this proposal would prohibit a sponsored immigrant from becoming eligible for benefits if the sponsor's income and resources were depleted sufficiently to meet eligibility criteria, as is the case with current law. Also, refugees would continue to be exempt from sponsor-to-alien deeming, and sponsored immigrants who become blind or disabled after entry into the U.S. would continue to be eligible for benefits. This proposal merely requires sponsors to continue for a longer period of time to accept financial responsibility for those immigrants they choose to sponsor. Once sponsored immigrants become citizens, it is appropriate to discontinue these eligibility rules.

FINANCING PROVISIONS

Vision

The financing for welfare reform comes from three areas: (1) reductions in entitlement programs; (2) extensions of various savings provisions set to expire in the future; and (3) better EITC targeting and compliance measures. Estimated federal savings for all proposals are roughly $9.3 billion over five years.

A. ENTITLEMENT REFORMS

1. Cap the emergency assistance program

Vision

The AFDC-Emergency Assistance (EA) Program is an uncapped entitlement program. In fiscal year 1990, expenditures totalled $189 million; by fiscal year 1999 they are projected to reach almost $1 billion. While the intent of the EA program is to meet short-term emergency needs and help keep people off welfare, States currently have wide latitude to determine the scope of their EA programs. Recently, States have realized that the definition of the program is so broad that it can fund almost any critical services to low-income persons. Some States have begun shifting costs from programs which the States fund primarily on their own such as foster care, family preservation, and homeless services into the matched EA program. States appear to be funding services that address long-term problems as well as true emergency issues.

Specifications

(a) Modify the current Emergency Assistance program by establishing a Federal cap for each State's EA expenditures. The cap will be set in fiscal year 1995 and increased by the Consumer Price Index in each subsequent year.

(b) The basic allocation formula is a combination of two components:

(i) Allocation among States proportional to their requested expenditures in 1994; and

(ii) Allocation among States proportional to their total AFDC spending in the previous year.

(c) There will be a ten-year transition period, and the weighting of the components will shift over time, with increasingly more weight being given to the second component. Beginning in 1995, the weighting will be 90 percent by component 1 and 10 percent by component 2. The weighting will be altered by 10 percentage points each year such that by 2004, the weighting will be 100 percent by component 2.

Rationale

The proposal ensures that all States will receive continued funding equal to their actual 1991 levels. The Federal match will continue at 50 percent up to the cap. This proposal raises about $1.60 billion over five years. The basic allocation formula balances the need to protect States that have been spending heavily on EA in and before 1994 with the potential claims of new States which have not previously had claims for services under EA.

2. Tighten sponsorship and eligibility rules for non-citizens

Vision

In recent years, the number of non-citizens lawfully residing in the U.S. who collect SSI has risen dramatically. Immigrants rose from 5 percent of the SSI aged caseload in 1982 to over 25 percent of the caseload in 1992. Since 1982, applications for SSI from immigrants have tripled, while immigration rose by only about 50 percent over the period.

Most of the legal permanent residents applicants enter the country sponsored by their relatives, who agree as a condition of sponsorship that their relatives will not become public charges. To enforce this commitment, until this year, current law required that for 3 years, a portion of the sponsor's income in excess of 110 percent of poverty by "deemed" as available to help support the legal permanent resident (LPR) immigrant should they need public assistance. Currently, about one-third of the LPR immigrants on SSI subject to the deeming rules apply in their 4th year of residency. Last fall, to pay for extended unemployment benefits, Congress extended the time of deeming under SSI from three years to five years until 1996 when it reverts to three years again.

The Administration proposal related to non-citizens contains two parts-extending the deeming period for sponsor income and coordinating eligible criteria under four Federal assistance programs.

Specifications

(a) Deeming Make the current five-year period of sponsor responsibility permanent law under the SSI program and extends from three years sponsor responsibility under the AFDC and Food Stamp programs. The sponsor's income would be deemed as available to support the immigrant should they apply for public assistance. For the period beginning with six years after being lawfully admitted for permanent residence in the U.S. and until a sponsored immigrant attains citizenship status, if the sponsor has become above the U.S. median family income ($39,500), the sponsor will continue to be responsible for ensuring the support of the immigrant.

Rational

This will have the effect of denying benefits to immigrants with sponsors with income above the median. Once immigrants attain citizenship, they will be eligible to apply for benefits on their own. Any immigrants whose sponsor is receiving SSI or AFDC benefits would be exempt from sponsor-to-alien deeming under SSI, AFDC and food stamps. The proposal affects applications for the date of enactment (i.e., it would grandfather current recipients as long as they remained continuously eligible for benefits). These changes in deeming rules would have no effect on, Medicaid eligibility for immigrants. This part of the proposal saves about $2.8 billion over five years.

(b) Set consistent deeming rules for sponsored immigrants across three Federal programs (SSI, AFDC, and Food Stamps). Sponsor responsibility is based on longstanding immigration policy that immigrants should not become public charges.

Rationale

Sponsored immigrants most often apply for SSI benefits on the basis of being aged, and are different from most citizens in that

the latter typically spend their life working and paying taxes in the U.S. At the same time, this proposal ensures that truly needy sponsored immigrants will not be denied welfare benefits if they can establish that their sponsors are no longer able to support them, if their sponsors die, or if the immigrant becomes blind or disabled after entry into the U.S. The policy would not affect refugees or asylees.

Vision

Currently, due to different eligibility criteria in statute, and litigation over how to interpret statutory language, the four Federal programs (SSI, AFDC, Medicaid, and Food Stamps) do not cover the same categories of non-LPR immigrants. For example, aliens whose departure the INS does not contemplate enforcing are eligible for SSI, but not for Food Stamps. The Food Stamp program has the most restrictive definition of which categories of non-LPR immigrants are eligible for benefits (i.e., the eligibility criteria encompass a fewer number of INS statuses). SSI and Medicaid have the most expansive definition of which categories of non-LPR immigrants are eligible for benefits, and the AFDC program falls between these extremes. This element establishes in statute a consistent definition of which non-LPR immigrants are eligible for welfare benefits.

(c) Eligibility criteria. Establish similar eligibility criteria under four Federal programs (SSI, AFDC, Medicaid, and Food Stamps) for all categories of immigrants who are not legal permanent residents.

Rationale

This proposal makes eligibility criteria in the SSI, Medicaid, and AFDC programs similar to the criteria that currently exist in the Food Stamp program. The new list of INS statuses required for potential eligibility to the SSI, Medicaid, and AFDC programs is also virtually identical to those listed in the Health Security Act providing eligibility for the Health Security Card. Like the extended deeming provisions, this part of the proposal affects applications after date of enactment (i.e., it would grandfather current recipients as long as they remained continuously eligible for benefits). This part of the proposal saves about $900 million over five years.

3. New rules regarding SSI benefits for drug and alcohol addicted recipients

Current Law

Current law requires that all SSI disability recipients for whom substance abuse is material to the finding of disability must be in available treatment and must have their payments made through a representative payee (a third party who receives and manages the funds). Payments to these SSI drug addict and alcoholic (DA&A) beneficiaries are suspended if the individual fails to participate in appropriate alcohol or drug treatment, if such treatment is available. No similar requirements are made of Social Security (Title II) disability beneficiaries who receive benefits on the basis of addictions. The representative payee and treatment requirements have been part of the SSI program since its inception over 20 years ago. However, the provisions have not been implemented effectively.

Specification

(a) Strengthen sanctions and apply new time limits to benefits paid to individuals receiving Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI) benefits who have substance abuse problems that are material to their disability finding.

Rationale

The Congress is reaching decisions on these proposals currently in conference on H.R. 4277, a bill which the Administration supports. We anticipate savings of $800 million over five years. Should the final bill yield savings of less than $800 million, we are committed to working with Congress to fully finance the package.

4. Income test meal reimbursements to family day care homes

Current Law

The Child Care Food Program provides food subsidies for children in two types of settings: child care centers and family day care homes. They are administered quite differently. The subsidies in centers are well targeted because they are means-tested; USDA believes that over 90 percent of Federal dollars support meals served to low-income (below 185 percent of poverty) children. The family day care part of the program is not well targeted because it has no means test (due to the burden it would place on the providers). A USDA-commissioned study estimates that 71 percent of Federal food program dollars to family day care homes support meals for children above 185 percent of the poverty line. While the child care center funding levels have been growing at a modest rate, the family day care funding levels are growing rapidly—16.5 percent between 1991 and 1992.

Specifications

(a) Amend section 17(c) of the National School Lunch Act (42 U.S.C. 1766(c)) to establish a two-tiered reimbursement structure (in the Child and Adult Care Food Program) with a higher level of reimbursement for meals served by family day care homes located in low-income areas. Low-income areas would be defined as those in which half of the households have incomes below 185 percent of poverty. Family day care homes not located in low-income areas would have the option of receiving lower rates of meal reimbursement or administering a means test to enrolled children.

(b) Under the means tested option, meals served to children whose family income is below 185 percent of poverty would be reimbursed at the higher rate, while those served to children from higher income families would be reimbursed at the lower rate. Meals served to children enrolled in programs operated by low income providers would also be reimbursed at the higher rate. Finally, meals served to the day care providers' own children would continue to be means-tested.

(c) Provide family day home sponsoring organizations with an additional $10 per home per month for each home it sponsors in low-income areas. Authorize $2 million to States agencies for technical assistance to sponsors to help implement the new reimbursement system in FY 1995. Technical assistance funding would increase to $5 million in FY 1996. Authorize for FY 1997 through FY 2000 $5 million for the licensing of family day care homes in low-income areas.

Rationale

This approach better targets the family day care food program funding to low-income children and creates minimal administrative requirements for providers. This provision yields savings of about $500 million over five years.

5. Limit deficiency payments to those making $100,000+ from off-farm income per year

Vision

USDA farm programs are criticized for unfairly supporting large farms and wealthy producers rather than smaller farms and lower-income farmers. The Congressional Office of Technology Assessment concluded that most big farms "do not need direct government payments and/or subsidies to compete and survive."

Specification

(a) Make producers receiving $100,000 or more in off-farm adjusted gross income ineligible for Commodity Credit Corporation (CCC) crop subsidies (price support loans and income support payments).

Rationale

The proposed targeting of subsidies would direct farm payments to smaller, family farms, which deserve Federal financial help more than large agricultural enterprises and individuals with sufficient off-farm income. It would cause an estimated 1–2 percent of program participants to drop out of USDA farm programs. Most of these wealthiest participants include corporations and individuals for whom farming is not a primary occupation or source of income. This proposal would save about $500 million over five years.

B. EXTEND EXPIRING PROVISIONS

1. Hold constant the portion of food stamp overpayment recoveries that States may retain

Vision and rationale

States are permitted to keep some portion of the 100-percent Federal Food Stamp recoveries as an incentive payment for pursuing violations. This proposal raises about $100 million over five years.

Specification

(a) Extend the 1990 Farm Bill provision which reduced the percentage of recovered Food Stamp over-issuances retainable by State agencies for fiscal years 1991–95. Under this provision, which would be extended to fiscal years of 1996–2004, States could retain 25 percent of recoveries from intentional program violations (previously 50 percent) and 10 percent of other recoveries (previously 25 percent).

2. Extend fees for passenger processing and other custom services

Vision and rationale

A flat-rate merchandise processing fee (MPF— is charged by U.S. customs for processing of commercial and non-commercial merchandise that enters or leaves U.S. warehouses. The fee, adopted by OBRA 1986, generally is set at 0.19, percent of the value of the good. Other variable customs fees are charged for: passenger processing; commercial truck arrivals; railroad car arrivals; private vessel or private aircraft entries; dutiable mail; broker permits; and barge/bulk carriers. NAFTA extended the MPF and other fees through September, 2003. This proposal would save about $1 billion in that year.

Specification

(a) Extend the fees through September, 2004.

3. Extend railroad safety use fees

Vision and rationale

Railroad safety inspection fees were enacted in the Omnibus Budget Reconciliation Act of 1990 to pay for the costs of the Federal rail safety inspection program. The railroads are assessed fees according to a formula based on three criteria: road miles, as a measure of system size; train miles as a measure of volume; and employee hours as a measure of employee activity. The formula is applied across the board to all railroads to cover the full costs of the Federal railroad

safety inspection program. The fees are set to expire in 1996. The 1995 President's Budget proposed to extend the fees through 1999 and expand them, effective in 1995, to cover other railroad safety costs. The proposal raises about $200 million over five years.

Specification

(a) Extend the Railroad safety inspection fees permanently.

4. Extend expiring corporate environmental income (CEI) tax used to finance superfund

Vision and rationale

A broad-based environmental tax, based on corporate alternative minimum taxable income (0.12 percent) in excess of $2 million, was first enacted in 1986 and is set to expire at the end of 1995.

Superfund reauthorization legislation would provide a further CEI tax extension through the year 2000, which would provide sufficient additional credit needed for budget scoring of the Superfund legislation's "orphan share" proposal. All revenue from the CEI tax extension, whether enacted in welfare reform or Superfund legislation, will continue to be dedicated to the Hazardous Substance Superfund to be used only for Superfund cleanups.

Specification

(a) Extend the CEI tax into 1998.

C. EITC TARGETING AND COMPLIANCE MEASURES

1. Deny EITC to non-resident aliens

Vision and rationale

Under current law, non-resident aliens may receive the Earned Income Tax Credit (EITC). Because non-resident taxpayers are not required to report their worldwide income, it is currently impossible for the IRS to determine whether ineligible individuals (such as high-income nonresident aliens) are claiming the EITC. We estimate that about 50,000 taxpayers will be affected by our proposal, mainly visiting foreign students and professors. The proposal raises about $100 million over five years.

Specification

(a) Deny the EITC to non-resident aliens completely.

2. Require Income Reporting for EITC Purposes for Department of Defense (DoD) Personnel

Vision and rationale

Under current law, families living overseas are ineligible for the EITC. The first part of this proposal would extend the EITC to active military families living overseas. To pay for this proposal, and to raise net revenues, the DoD would be required to report the nontaxable earned income paid to military personnel (both overseas and States-side) on Form W-2. Such nontaxable earned income includes basic allowances for subsistence and quarters. Because current law provides that in determining earned income for EITC purposes such nontaxable earned income must be taken into account, the additional information reporting would enhance compliance with the EITC rules. The combination of these two proposals raises about $200 million over five years.

Specifications

(a) Extend the EITC to active military families living overseas.

(b) Require DoD to report the nontaxable earned income paid to military personnel (both overseas and States-side) on Form W-2.

By Mr. HATFIELD:

S. 2226. A bill to designate a site for the relocation of the public facility of the National Museum of Health and Medicine, and for other purposes; to the Committee on Armed Services.

RELOCATING THE NATIONAL MUSEUM OF HEALTH AND MEDICINE

• Mr. HATFIELD. Mr. President, on May 5, 1994, I introduced legislation, S. 2080, to designate the site for the relocation of the National Museum of Health and Medicine. The legislation identifies a site adjacent to the Hubert Humphrey Building, located just off of the National Mall, as the new location for the museum, which is currently at the Walter Reed Medical Center in Bethesda, MD. My legislation, cosponsored by Senators NUNN, KENNEDY, HARKIN, and BOXER, was referred to the Senate Committee on Energy and Natural Resources.

Today I am introducing a revised version of the legislation which adds to the original purpose of relocating the museum by also providing for the continued display and interpretation of the collections of the Armed Services Institute of Pathology. These collections, which contain precious artifacts representing our country's history in such areas as Civil War medicine and the assassinations of Presidents Lincoln and Garfield, are world renown. This bill will be referred to the Senate Committee on Armed Services, which has had primary jurisdiction over this facility since its inception when it was known as the Army Medical Museum.

The Army Medical Museum was born amidst the tumult of the United States Civil War. Over the years, in addition to handling the autopsies on two of our former Presidents, the museum identified the Aedes Aegypti mosquito as the carrier of yellow fever—work which made it possible to control the disease and removed a critical barrier to construction of the Panama Canal. Prior to World War I, Maj. Frederick Russell, curator of the museum, was a central figure in the discovery of a successful antityphoid vaccine which was both developed and tested at the museum. "Fit to Fight," a series of educational films warning American soldiers about the dangers of venereal disease, was produced by the museum in response to this recurring problem of the great war.

In 1965, the museum was designated a national historic landmark. In 1989, it became the National Museum of Health and Medicine of the Armed Forces Institute of Pathology. Today, more than 125 years after its founding, the museum continues to respond to changing medical and educational needs of the Nation and the international audience it serves.

I am convinced that this facility, if strategically located and infused with a strong public education mandate, can play a pivotal role in the teaching of self-responsibility for our health. To me, as we continue to reform the Nation's health care delivery system, there is no greater mission than raising public awareness and responsibility.•

By Mr. LAUTENBERG (for himself and Mr. MITCHELL):

S. 2227. A bill to amend the Solid Waste Disposal Act to provide congressional authorization of State control over transportation of municipal solid waste, and for other purposes; to the Committee on Environment and Public Works.

FLOW CONTROL ACT OF 1994

• Mr. LAUTENBERG. Mr. President, today I am introducing the Flow Control Act of 1994 which will overturn a recent Supreme Court decision and give State and local governments the authority to control the flow of solid waste. This decision, if allowed to stand, could result in chaos in communities in the 43 States where flow control authority is currently in place and constitutes a critical component of strategies to manage waste. I'm pleased that the majority leader, Senator MITCHELL, is a cosponsor of this legislation.

A few weeks ago, in a 6-to-3 decision, the Supreme Court ruled in the case of Carbone versus Clarkstown that a New York municipality could not require that garbage generated in the locality be sent to a designated waste management facility. The Court held that a Clarkstown, NY flow control ordinance interfered with interstate commerce and deprived out-of-State firms access to the local trash market. The Constitution provides that only the Federal Government may regulate commerce among the States unless it specifically delegates this authority to them. The Court's ruling held that this power had not been granted by Congress to the States.

This decision will have a significant effect on the ability of State and local governments to manage garbage. Historically, State and local governments have had the responsibility for municipal solid waste management. This is recognized in the Nation's solid waste management law, the Resource Conservation and Recovery Act or RCRA. In RCRA, the Congress found that collection and disposal of garbage is primarily a function for State and local governments. To foster this function, RCRA requires EPA to provide assistance in the development and implementation of State solid waste management plans. States are encouraged to develop statewide solid waste management plans. Before EPA approves a plan, it must find that the plan identifies the responsibilities of State, regional and local governments and has provided for the establishment of such State regulatory powers as is necessary to implement the plan. It's clear from RCRA that Congress intended that state and local governments have the authority necessary to manage solid waste.

Forty-three States including New Jersey either utilize flow control authority or have authorized local governments to use flow control for waste management. Flow control laws have been in place in New Jersey since 1979 and control all of the nonhazardous solid waste in our 567 municipalities and 21 counties. Flow control has been a significant part of New Jersey's ability to build an infrastructure to handle the 14 millions tons of solid waste requiring disposal annually. Collectively, this infrastructure represents a capital investment of over $2 billion. New Jersey's recycling programs also are dependent on revenues received for use of New Jersey waste management facilities.

The Supreme Court Decision threatens this authority, undercuts the roles of State and local governments in solid waste management, and negates the planning process contemplated by the Congress in RCRA.

The decision makes it impossible for cities to guarantee a steady stream of waste to waste disposal and processing facilities. Without this guaranteed steady stream of garbage, communities will be unable to secure financing to build solid waste management facilities. This threatens New Jersey's program to become solid waste self-sufficient by the end of the decade. It also threatens New Jersey's existing program to restrict exports of garbage without approval by the State.

In addition, localities would lose the revenue generated by garbage disposal at municipal facilities as garbage flowed to other facilities. This would eliminate the source of funding for related nonprofitable waste management activities such as recycling and household hazardous waste programs. We need to increase recycling efforts. But the loss of flow control authority threatens existing efforts let alone making an expansion of recycling programs less likely.

Finally, existing bonds used to finance waste management facilities are at risk if localities cannot send an adequate level of garbage to the facility to generate revenues to pay off the bonds. If localities cannot send an adequate level of garbage to a facility to generate the revenue needed to pay off the bonds, they face default and the affected communities face higher taxes.

My bill takes a balanced approach to addressing the concerns raised by the Supreme Court decision. It is intended to put State and local governments in the same position they were in concerning flow control authority on the day before the *Carbone* decision and other court decisions striking down flow control laws except as specifically provided for in the bill. It protects all existing flow control laws and arrangements like those in New Jersey where flow control had been used to designate solid waste management facilities prior to May 15, 1994. It grants authority to State and local governments to institute additional flow control authority for:

Municipal solid waste from household sources;

Recyclables which have been voluntarily surrendered to the government; and

Municipal solid waste generated from commercial, industrial and institutional sources, as well as incinerator ash and construction and demolition debris if such waste had been flow controlled under a State or local law or ordinance prior to May 15, 1994.

It provides that flow control authority can only be used if the community has a program to remove recyclables from the solid waste stream in accordance with the State law or a local solid waste management plan.

My bill requires that the local government undertake a competitive designation process when it decides to implement its flow control authority which considers the facilities and services which the private sector can provide. This process is designed to foster competition and help save the taxpayers money by keeping tipping fees down.

This competitive designation process requires the government to establish specific criteria to be used to select facilities and also compare alternatives when designating a facility for flow control. The process also provides the public participation during the selection process. At the same time, it allows State and local governments to retain final decision making authority over most waste disposal decisions.

I want to make clear what the bill does not do. It does not tell State and local governments how to manage waste. Decisions on how to manage garbage and where to site management facilities are not Federal responsibilities. These decisions have been and continue to be issues for local governments to decide subject to state permits. It leaves State and local governments with the same authority they've had other than dealing with flow control to address solid waste.

Mr. President, we cannot expect State and local governments to manage solid waste as contemplated by RCRA if we fail to provide those governments with the tools to ensure that properly sized facilities to manage the waste are constructed. My bill merely overturns the Supreme Court decision and provides state and local governments with the tools they need to manage solid waste.

Mr. President, the Congress should deal with the ambiguities that flow from the Supreme Court decision soon. State and local governments need to discharge their responsibilities for solid waste disposal.

In dealing with this issue, we must be mindful of the impact that it might have on the consumer. My bill is proconsumer. Municipal solid waste is a State and local government responsibility but doesn't have to be carried out by these governments. There are numerous examples of successful efforts to privatize government operations. This bill will bring the pressure of the free market to bear on solid waste decisions and hopefully lead to the most efficient operation providing relief to local taxpayers.

I ask unanimous consent that a copy of the bill, a summary of the bill, editorials from the Camden Courier-News, the Newark Star-Ledger, and the Atlantic City Press and letters of support of the bill appear in the CONGRESSIONAL RECORD.

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

S. 2227

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 "Flow Control Act of 1994".

SEC. 2. CONGRESSIONAL AUTHORIZATION OF STATE CONTROL OVER TRANSPORTATION OF MUNICIPAL SOLID WASTE.

(a) IN GENERAL.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following new section:

"SEC. 4011. CONGRESSIONAL AUTHORIZATION OF STATE CONTROL OVER TRANSPORTATION OF MUNICIPAL SOLID WASTE.

"(a) AUTHORITY.—

"(1) IN GENERAL.—Each State and each qualified political subdivision may, in accordance with this section—

"(A) direct, limit, regulate, or prohibit the transportation of municipal solid waste generated from household sources (as described in subsection (g)(2)(A)(i)) within the boundaries of the State or subdivision and designate each waste management facility to which any such municipal solid waste shall be transported;

"(B) direct, limit, regulate, or prohibit the transportation of municipal solid waste that is generated, or is commingled with municipal solid waste that is generated, from commercial, institutional, or industrial sources within the boundaries of the State or subdivision, or that is incinerator ash from a solid waste incineration unit, or construction debris or demolition debris, generated within the boundaries of the State or subdivision (referred to in this subparagraph as 'covered waste') and designate each waste management facility to which any such covered waste shall be transported, if, before May 15, 1994—

"(i) the State or subdivision adopted a law, ordinance, regulation, or legislative or administrative provision that pertains to the transportation of municipal solid waste generated within the boundaries; and

"(ii) directed, limited, regulated, or prohibited the transportation of covered waste under the law, ordinance, regulation, or provision to a facility designated before such date; and

"(C) direct, limit, regulate, or prohibit the transportation of recyclable materials generated within the boundaries of the State or

subdivision and designate each facility to which any such materials shall be transported.

"(2) APPLICATION.—A State or qualified political subdivision may exercise the authority described in paragraph (1)(C) with respect to recyclable materials only if—

"(A) the generator or owner of the materials voluntarily made the materials available to the State or qualified political subdivision and relinquished any rights to, or ownership of, such materials; and

"(B) the State or qualified political subdivision, or the designee of the State or qualified political subdivision, assumes such rights to, or ownership of, such materials.

"(b) LIMITATIONS.—A State or qualified political subdivision may exercise the authority provided by subsection (a) only if the State or qualified political subdivision—

"(1) before exercising the authority described in subsection (a)(1)(A) with respect to municipal solid waste described in subsection (a)(1), establishes a program to separate, or divert at the point of generation, the materials described in subsection (g)(4) from the municipal solid waste, for purposes of recycling, reclamation, or reuse, in accordance with any State law or municipal solid waste planning requirements in effect;

"(2) develops and implements a process described in subsection (c) for the designation of facilities described in subsection (a); and

"(3) after conducting 1 or more public hearings—

"(A) finds, on the basis of the record developed at the hearing or hearings that it is necessary to exercise the authority provided by subsection (a) to meet the current solid waste management needs (as of the date of the record) and anticipated solid waste management needs of the State or qualified political subdivision for management of municipal solid waste or recyclable materials; and

"(B) provides a written explanation of the reasons for the finding described in subparagraph (A).

"(c) COMPETITIVE DESIGNATION PROCESS.—In developing and implementing the designation process described in subsection (b)(2) or (e)(4) with respect to waste management facilities and facilities for recyclable materials, the State or qualified political subdivision shall—

"(1) ensure that the designation process is based on, or is part of, a municipal solid waste management plan that is adopted by the State or qualified political subdivision and that is designed to ensure long-term management capacity for municipal solid waste or recyclable materials generated within the boundaries of the State or subdivision;

"(2) set forth the goals of the designation process, including at a minimum—

"(A) capacity assurance;

"(B) the establishment of provisions to ensure that protection of human health and the environment will be achieved; and

"(C) any other goals determined to be relevant by the State or qualified political subdivision;

"(3) identify and compare the alternatives and options for designation of the facilities;

"(4) provide for public participation and comment;

"(5) ensure that the designation of the facilities is accomplished through an open competitive process during which the State or qualified political subdivision—

"(A) identifies in writing the specific criteria to be utilized for selection of the facilities;

"(B) provides an opportunity for interested public persons and private persons to offer their existing (as of the date of the process) or proposed facilities for designation; and

"(C) evaluates and selects the facilities for designation based on the merits of the facilities in meeting the specific criteria identified; and

"(6) base the designation of each such facility on reasons that shall be stated in a public record.

"(6) OWNERSHIP OF RECYCLABLE MATERIALS.—

"(1) PROHIBITION ON REQUIRED TRANSFERS.—Except as provided in paragraph (3), nothing in this section shall authorize any State or qualified political subdivision to require any generator or owner of recyclable materials to transfer any recyclable materials (other than abandoned or discarded materials) to such State or qualified political subdivision.

"(2) PROHIBITION ON PROHIBITED TRANSACTIONS.—Except as provided in paragraph (3), nothing in this section shall prohibit any generator or owner of recyclable materials from selling, purchasing, accepting, conveying, or transporting any recyclable materials for purposes of transformation or remanufacture into usable or marketable materials, unless the generator or owner voluntarily made the materials available to the State or qualified political subdivision and relinquished any rights to, or ownership of, such materials.

"(3) LAW AND CONTRACTS.—A contract, law, ordinance, regulation, or provision described in subsection (e)(1) may contain an authorization described in paragraph (1) or a prohibition described in paragraph (2).

"(e) EXISTING LAWS AND CONTRACTS.—

"(1) IN GENERAL.—This section shall not supersede, abrogate, or otherwise modify any of the following:

"(A) Any contract or other agreement (including any contract containing an obligation to repay the outstanding indebtedness on any facility) entered into before May 15, 1994, by a State or qualified political subdivision in which such State or qualified political subdivision has designated a waste management facility, or management facility for recyclable materials, for the management of municipal solid waste or recyclable materials pursuant to an ordinance or law adopted by such State or qualified political subdivision before May 15, 1994.

"(B) Any other contract or agreement entered into before May 15, 1994, for the management of municipal solid waste.

"(C)(i) Any law, ordinance, regulation, or legislative or administrative provision—

"(I) that is adopted before May 15, 1994; and

"(II) that pertains to the transportation of municipal solid waste generated within the boundaries of a State or qualified political subdivision;

to the extent that the law, ordinance, regulation, or provision is applied to the transportation of municipal solid waste, generated from household sources (as described in subsection (g)(2)(A)(i)) within the boundaries, to a facility designated before such date under such law, ordinance, regulation, or provision.

"(ii) Any law, ordinance, regulation, or legislative or administrative provision—

"(I) that is adopted before May 15, 1994;

"(II) that pertains to the transportation of municipal solid waste generated within the boundaries of a State or qualified political subdivision; and

"(III) under which a State or qualified political subdivision, prior to May 15, 1994, directed, limited, regulated, or prohibited the transportation of municipal solid waste that is generated, or is commingled with municipal solid waste that is generated, from commercial, institutional, or industrial sources within the boundaries, or that is incinerator ash from a solid waste incineration unit, or construction debris or demolition debris, generated within the boundaries;

to the extent that the law, ordinance, regulation, or provision is applied to the transportation of municipal solid waste described in subclause (III), to a facility designated before such date under such law, ordinance, regulation, or provision.

"(iii) Any law, ordinance, regulation, or legislative or administrative provision—

"(I) that is adopted before May 15, 1994; and

"(II) that pertains to the transportation of recyclable materials generated within the boundaries of a State or qualified political subdivision;

to the extent that the law, ordinance, regulation, or provision is applied to the transportation of recyclable materials, that are generated within the boundaries and with respect to which the generator or owner of the materials, and the State or qualified political subdivision, have met the appropriate conditions described in subsection (a)(2), to a facility designated before such date under such law, ordinance, regulation, or provision.

"(iv) Any law, ordinance, regulation, or legislative or administrative provision—

"(I) that is adopted before May 15, 1994;

"(II) that pertains to the transportation of recyclable materials generated within the boundaries of a State or qualified political subdivision; and

"(III) under which a State or qualified political subdivision, prior to May 15, 1994, directed, limited, regulated, or prohibited the transportation of recyclable materials that are not materials with respect to which the generator or owner of the materials, and the State or qualified political subdivision, have met the appropriate conditions described in subsection (a)(2) and that—

"(aa) are generated from household sources (as described in subsection (g)(2)(A)(i)) within the boundaries; or

"(bb) are generated from commercial, institutional, or industrial sources within the boundaries;

to the extent that the law, ordinance, regulation, or provision is applied to the transportation of recyclable materials, described in subclause (III), to a facility designated before such date under such law, ordinance, regulation, or provision, and is applied to the same class of materials described in item (aa) or (bb) of subclause (III) to which the law, ordinance, regulation, or provision applied before such date.

"(2) CONTRACT INFORMATION.—A party to a contract or other agreement that is described in subparagraph (A) or (B) of paragraph (1) shall provide a copy of the contract or agreement to the State or qualified political subdivision on request. Any proprietary information contained in the contract of agreement may be omitted in the copy, but the information that appears in the copy shall include at least the date that the contract or agreement was signed, the volume of municipal solid waste or recyclable materials covered by the contract or agreement with respect to which the State or qualified political subdivision could otherwise exercise authority under subsection (a), the source of the waste or materials, the destination of the waste or materials, the duration of the contract or agreement, and the parties to the contract or agreement.

"(3) EFFECT ON INTERSTATE COMMERCE.—Effective from the date of its adoption, no contract or agreement described in subparagraph (A) or (B) of paragraph (1), and no law,

ordinance, regulation, or provision described in paragraph (1)(C), shall be considered to impose an undue burden on or otherwise impair, restrain, or discriminate against interstate commerce.

"(4) LIMITATION.—A State or qualified political subdivision may exercise the authority of any law, ordinance, regulation, or provision described in paragraph (1)(C), to the extent provided in such paragraph, only if the State or qualified political subdivision develops and implements a process described in subsection (c) for the designation of any waste management facility or facility for recyclable materials that the State or qualified political subdivision designates, after the date of enactment of this section, as a facility to which any waste or materials described in paragraph (1) shall be transported. Nothing in this paragraph shall affect any designation made before the date of enactment of this section

"(5) EFFECT ON STATE PROCUREMENT LAWS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), nothing in this section shall supersede or modify—

"(i) any State law or State regulation concerning the procurement of municipal solid waste services or facilities by qualified political subdivisions; or

"(ii) any State law or regulation concerning competitive bidding for such services or facilities.

"(B) DESIGNATION.—Notwithstanding subparagraph (A), any such facilities shall be subject to the designation process described in subsection (c).

"(6) DESIGNATION BEFORE A DATE.—For purposes of this section, a facility shall be considered to be designated before a date if—

"(A) the facility was designated before the date in a written document; and

"(B) the terms and requirements of the document, and of any laws and regulations of the State or qualified political subdivision involved, that were in effect and applicable to the designation continue to apply

"(f) SAVINGS CLAUSE.—Nothing in this section is intended to supersede, amend, or otherwise modify Federal or State environmental standards that apply to the disposal or management of solid waste at waste management facilities and facilities for recyclable materials.

"(g) DEFINITIONS.—As used in this section:

"(1) INDUSTRIAL SOLID WASTE.—The term 'industrial solid waste' means solid waste generated by manufacturing or industrial processes, including waste generated during scrap processing and recycling, that is not hazardous waste regulated under subtitle C.

"(2) MUNICIPAL SOLID WASTE.—

"(A) IN GENERAL.—The term 'municipal solid waste'—

"(i) means any waste generated by a household, including a single or multifamily residence,

"(ii) includes waste generated by a commercial, institutional, or industrial source to the extent that such waste—

"(I) is essentially the same as waste normally generated by households; or

"(II) would be considered conditionally exempt small quantity generator waste under section 3001(d) and is collected and disposed of with other municipal solid waste as part of normal municipal solid waste collection services; and

"(iii) includes residue remaining after recyclable materials have been separated, or diverted at the point of generation, from municipal solid waste described in clause (i) or (ii).

"(B) EXCLUSIONS.—The term 'municipal solid waste' shall not include any of the following:

"(i) Hazardous waste required to be managed in accordance with subtitle C (other than waste described in subparagraph (A)(ii)(II)), solid waste containing a polychorinated biphenyl regulated under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), or medical waste.

"(ii)(I) A recyclable material.

"(II) A material or a product returned from a dispenser or distributor to the manufacturer or the agent of the manufacturer for credit, evaluation, or reuse.

"(III) A material or product that is an out-of-date or unmarketable material or product, or is a material or product that does not confirm to specifications, and that is returned to the manufacturer or the agent of the manufacturer for credit, evaluation, or reuse.

"(iii) Any solid waste (including contaminated soil and debris) resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604 or 9606) or a corrective action taken under this Act.

"(iv)(I) Industrial solid waste.

"(II) Any solid waste that is generated by an industrial facility and transported for the purpose of containment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or a facility that is located on property owned by the generator or a company with which the generator is affiliated.

"(3) QUALIFIED POLITICAL SUBDIVISION.—The term 'qualified political subdivision' means a governmental entity of a political subdivision of a State if a majority of members of the entity are elected officials and the entity has been granted authority by the State to plan for, or determine the methods to be utilized for, the collection, disposal, or other management of municipal solid waste generated within the boundaries of the political subdivision.

"(4) RECYCLABLE MATERIALS.—The term 'recyclable material' means any material (including any metal, glass, plastic, textile, wood, paper, rubber, or other material) that has been separated, or diverted at the point of generation, from solid waste for the purpose of recycling, reclamation, or reuse.

"(5) WASTE MANAGEMENT FACILITY.—The term 'waste management facility' means any facility in which solid waste is collected, separated, stored, transferred, treated, processed, or disposed of.".

(b) TABLE OF CONTENTS.—The table of contents for such subtitle D is amended by adding after the item relating to section 4010 the following new item:

"Sec. 4011. Congressional authorization of State control over transportation of municipal solid waste.".

FLOW CONTROL SUMMARY

(A) FLOW CONTROL AUTHORITY

(a)(1) Provides general authority for flow control of waste generated within the boundaries of the State or political subdivision for:

(A) Municipal solid waste generated from household sources;

(B) Municipal solid waste generated from commercial institutional, or industrial sources, if, before May 15, 1994, the State or political subdivision had a low authorizing the flow control of such waste and the State or political subdivision had directed such waste to a solid waste management facility designated before such date, and;

(C) Recyclable materials.

(a)(2) Limits authority to flow control recyclables to situations where the generator or owner of the material voluntarily relinquishes ownership of the material and the state or local government assumes ownership of the materials.

(B) LIMITATIONS ON AUTHORITY

To use flow control authority, states or local governments must:

(1) establish a program to separate or divert recyclables from municipal solid waste in accordance with any State law or municipal solid waste planning requirements;

(2) implement a process for the designation of facilities; and

(3) conduct a public hearing and make a written finding it is necessary to exercise flow control authority to meet needs for the management of municipal solid waste or recyclables.

(C) DESIGNATION PROCESS

Establishes a designation process that State and local governments must use to exercise flow control. The process must: be based on or part of a municipal solid waste management plan; set forth goals of the process including addressing capacity assurance and protecting human health and the environment; identify and compare alternatives for designation; provide for public participation; designate facilities based on an open competitive process in which the community identifies the criteria to be used in selecting facilities, provides an opportunity for any member of the public to offer their facility for the designation, and selects the facility based on the merits of the facility meeting the specified decision criteria; and base the designation of each facility on reasons stated in the public record.

(D) RECYCLABLE MATERIALS

Except for laws which were implemented by the designation of a facility to receive recyclables prior to May 15, 1994, makes clear that: (a) a state or local government cannot require a generator or owner of recyclable materials to transfer the material to the State or local government; and (b) the flow control provisions have no effect on the ability of owners of recyclables from engaging in transactions regarding the material unless the owner voluntarily relinquishes any rights to the material.

(E) GRANDFATHER OF EXISTING CONTRACTS AND LAWS

(1) Protests contracts entered into by a state or local government which designates a waste management facility which were entered into before May 15, 1994. Protects any other contract (including those involving private parties) entered into before May 15, 1994. Protects laws, ordinances, regulations or legislative or administrative provision adopted before May 15, 1994 regarding flow control of municipal solid waste generated from; (1) residential sources, (2) commercial, institutional, or industrial sources, or incinerator ash and construction and demolition debris, (3) recyclable materials where ownership is voluntarily relinquished by the generator or owner, and (4) recyclable materials where ownership is not voluntarily relinquished by the generator or owner, if the state or local government had exercised flow control authority by the designation of a facility to receive such waste prior to May 15, 1994. Future flow control over recyclable materials where ownership is not voluntarily relinquished by the generator or owner may only be applied to the same category of recyclables.

(2) Allows the state or local government to obtain access to the contract or agreement grandfathered under paragraph (1) after the deletion of proprietary information. Establishes the minimum level of information which must be made available.

(3) Provides that the contracts, agreements, laws, and administrative provisions grandfather under paragraph (1) shall not be considered to impose an undue burden on or discriminate against interstate commerce.

(4) Provides that for designations taking place after the date of enactment under the authority of those laws, ordinances or provisions grandfathered under paragraph 1(C), the state or local government must implement the designation process.

(5) Provides that nothing in the section shall supersede or modify any state law regarding procurement or competitive bidding.

(6) Provides that when a facility is designated before a date, the laws and regulations of the state or political subdivision which accompany the designation continue to remain in effect.

(F) SAVINGS CLAUSE

Provides that nothing in the bill shall supersede, amend, or modify Federal or State environmental standards which apply to solid waste management or disposal.

(G) DEFINITIONS

(1) Industrial waste definition refers to waste from manufacturing or industrial processes that is not hazardous waste as regulated under Subtitle C, including waste generated during scrap processing and recycling.

(2) Municipal solid waste means waste generated by a household, including a single or multifamily residence, and includes waste generated by a commercial, institutional, or industrial source if it is essentially the same as waste normally generated by households, or would be considered conditionally exempt small quantity generator waste under section 3001(d) of RCRA. It includes residue remaining after recyclable materials have been separated or diverted. Certain materials are specifically excluded.

(3) Qualified political subdivisions means a government entity of a political subdivision of a state if a majority of members of the entity are elected officials that has been granted authority by the State to plan for or determine the method to be used for the collection, disposal, or other management of municipal solid waste generated within the boundaries of the political subdivision.

(4) Recyclable material means any material that has been separated or diverted at the point of generation from solid waste for the purpose of recycling, reclamation or reuse.

(5) Waste management facility means any facility in which solid waste is collected, separated, stored, transferred, treated, processed, or disposed of and any combustion facility.

[From the Star-Ledger, June 18, 1994]

IN THE DUMPS

The garbage disposal business has become so complicated these days that even the U.S. Supreme Court has become involved—a development that virtually ensures it will become even more complicated. In a ruling that could have far-reaching implications, the court invalidated government control over where private haulers may dump municipal garbage.

The court, in a 6-3 decision, held that a local ordinance in a New York State community requiring its garbage to be sent to a designated facility was unlawful because it interfered with interstate commerce and was unconstitutional.

The ruling could have an adverse impact on New Jersey waste management policies which regulate the statewide disposal of garbage. However, Robert Shinn, commissioner of the state Department of Environmental Protection and Energy (DEPE), said there are "enough distinctions" between the New York ordinance and the state's regulations to protect New Jersey's law from a court challenge.

A dissenting view came from Bruce Parker, general counsel for the National Solid Wastes Management Association, which represents private waste haulers nationwide. The Supreme Court ruling, he said, gives haulers the option of ignoring New Jersey directives to dump their waste at particular incinerators, landfills or transfer stations if they find that an out-of-state alternative is more economically favorable.

New Jersey has a big stake here. Hundreds of millions of dollars have been invested in waste disposal facilities that depend on an assured flow of garbage to sustain their economic viability. If these regulatory controls are invalid, they could have a serious financial impact because of the diversion of waste to landfills in other states. They also would affect 43 other states that also use the so-called "flow-control" authority to manage garbage disposal.

There's an element of irony in that several states want to stop New Jersey and other states from continuing to export their garbage. That is precisely the objective of this state's solid waste policies, which are directed at reducing its dependency in exporting 20 percent of its garbage.

New Jersey and other states would have no recourse but to explore other options in the event that the Supreme Court ruling has a disruptive impact on its waste management policies by significantly increasing the volume of out-of-state garbage dumping. It is a national problem that should be addressed by federal legislation. Several states already have petitioned Congress to stop the export of garbage to their landfills.

A more direct approach is being taken by Sen. Frank Lautenberg (D-N.J.), who will introduce legislation to overturn the Supreme Court decision. This is a response that should help resolve reservations over a state's proper function to regulate an industry that provides an essential public service, addressing the specific waste disposal needs of individual states.

[From the Courier-News, May 15, 1994]

"FLOW CONTROL" INVALID—RULING THREATENS TO HIKE DISPOSAL COSTS

For years New Jersey has been running out of landfills, fighting congressional bans on exporting of our garbage and trying to keep mobsters from controlling the state's hauling industry.

To attain self-sufficiency in waste disposal, and to hold down rising costs, the state proclaimed a determination to become self-sufficient in handling its waste—by target dates that were repeatedly extended.

The Legislature also required counties to develop what are now known nationwide as "flow-control plans." Haulers are required to take all waste to recycling, separation and transfer stations certified by the state before it is burned at an incinerator or dumped in a landfill.

The requirement to use only certified facilities assured a steady flow of garbage—and income to pay off the bond issues used to finance new incinerators. It also made it difficult for haulers stripped of state licenses because of their mob connections to re-enter the business.

New Jersey's flow-control system is the most comprehensive of the 27 adopted by other states. But Robert Shinn, the state environmental protection commissioner, was almost blase in assessing the impact of Monday's U.S. Supreme Court ruling that one town's flow-control rules violated the Constitution's interstate commerce clause.

Shinn said that, unlike the Clarkstown, N.Y. rules invalidated by the court, New Jersey's were immune to challenge. (The suit against Clarkstown, was filed by a hauler barred from doing business in New Jersey because of mob ties.)

Sen. Frank Lautenberg accepted the invitation extended in Justice Sandra Day O'Connor's concurring opinion for Congress to authorize flow-control rules. He pledged to introduce legislation to overturn the Clarkstown decision.

A spokesman for the hauling industry says the decision means that any hauler who can save money by dumping garbage out of state "cannot be stopped by New Jersey." Haulers who bypass certified transfer, recycling and separation centers and incinerators, of course, reduce income for those facilities.

When tonnage falls below amounts guaranteed in "put or pay" contracts, counties—or rather their taxpayers—are required to pay penalties.

There was a remedy proposed in the majority opinion by Justice Anthony Kennedy: Municipalities (or counties) should subsidize fees of their waste-disposal facilities so that they will always be lower than those charged by the private sector—and will thus attract business without any flow-control laws.

The Supreme Court ruling in a theoretical vacuum, ultimately may have increased costs for a service the state was trying to assure would be delivered more efficiently, safely and less corruptly. Taxpayers can only hope Shinn's confidence in the legal invulnerability of New Jersey's system is well-placed.

[From the Press, May 29, 1994]

CONGRESS SHOULD ACT

It's tempting, isn't it?

It's tempting to say: Open up the marketplace in trash. Let government compete with private industry. Take away government's monopoly on trash disposal—which has made New Jersey one of the costliest states in the nation to get rid of trash.

That's a tempting conclusion, in the wake of a Supreme Court case that would eliminate the ability of governments to tell private haulers where to dispose of trash.

But it would be wrong. Here's why:

Remember, for a second, why government started taking control of trash in the first place. Remember leaking, substandard landfills and illegal dumpsites that polluted groundwater—many of which became Superfund sites that are now costing billions to clean up. Remember concerns about mob influence over the waste-disposal industry. Remember the environment—and goals that trash generation and disposal be done in a manner least likely to pollute our environment and deplete natural resources.

For all of those excellent reasons, government took control of trash. Whether that was the best route to go or not, it's too late to reverse it now for existing facilities.

Most of the tough decisions have been made about where to build trash-disposal facilities. The programs are in place. Already, billions of dollars have been spent by local

governments. And the financial underpinnings of those programs and facilities were flow-control laws, which the Supreme Court decision undermines.

Kicking out those financial underpinnings after so many trash facilities have been built and so much money expended is unfair. It jeopardizes public bonds and could leave taxpayers paying the bill.

Moreover, undermining flow-control laws is likely to hurt recycling efforts. And recycling (at least of most materials) saves natural resources and landfill space. It's the right thing to do, whether it saves money or not.

Congress should act quickly on a bill that would grandfather the trash control systems that exist in about half the states, including New Jersey. Such a bill is now being prepared in the House and Senate.

Such a bill would be most attractive if it not only protects the financial footing of existing government-run trash programs, but requires government to consider whether future operations would be less costly and more effectively run by private industry.

Legislation requiring a comparison of public and private ownership of new trash facilities is pending on the state level. That provision has also been included in at least one early draft of the federal bill protecting existing trash systems from the Supreme Court decision.

Such a mandatory cost comparison is wise. It's at least at attempt to rein in the spiraling cost of garbage disposal in New Jersey and help ensure the bills for future trash operations aren't inflated by government bloat.

THE ASSOCIATION OF ENVIRONMENTAL AUTHORITIES,
Mercerville, NJ, June 8, 1994.

Hon. FRANK LAUTENBERG,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR: It was a pleasure to meet with you in Newark last Friday. The AEA members who manage solid waste are grateful to you for supporting our position in the draft amendment which you have distributed to us. We wish you success in getting it added on to the Interstate Bill. Please feel free to call on us to help advance the bill in any way in which we can.

AEA has planned a program with the League of Municipalities to present this issue. I was hopeful that someone from your staff might attend and present your views on why the wording of this bill is advisable over other similar bills. Obviously, the New Jersey League position will be helpful in moving the National League of Cities position. I do not yet have a date for the seminar, but will keep your staff advised.

Thank you also for permitting us to participate in the press conference which was held after our meeting. The debt impact was presented in the ensuing article printed in the Star Ledger and was a welcomed opportunity.

Your attention to this matter is greatly appreciated.

Very Truly Yours,

ELLEN GULBINSKY,
Executive Director.

ATLANTIC COUNTY,
EXECUTIVE OFFICE,
Atlantic City, NJ, June 3, 1994.

Senator FRANK LAUTENBERG,
Hart Building, Washington DC.

DEAR SENATOR LAUTENBERG: As you are aware, the recent U.S. Supreme Court decision in Carbone vs. Clarkstown has stymied many of the solid waste collection and disposal systems financed and supervised by New Jersey's county governments.

I join with fellow county executives Robert Janizewski of Hudson County and Robert Prunetti of Mercer County in support of your efforts to pass legislation which establishes the circumstances under which county governments vested with principal responsibility for the collection and disposal of solid waste can regulate waste flows.

This legislation is vital to the orderly collection and disposal of solid waste in New Jersey, where this responsibility has been delegated to county governments with state oversight. As a result many counties have invested extensively in solid waste facilities such as incinerators, transfers stations, and long term disposal contracts. These investments are seriously jeopardized if a county cannot rely on a guaranteed waste stream which will provide the necessary revenues to pay the project's indebtedness.

Every homeowner in New Jersey is at risk of significantly higher taxes if corrective legislation is not approved. Your efforts in this regard are greatly appreciated.

Sincerely yours,

RICHARD E. SQUIRES,
County Executive.

WMX TECHNOLOGIES, INC.,
Washington, DC, June 16, 1994.

Hon. FRANK LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: As you know, the WMX family companies provides municipal solid waste (MSW) management services in 48 States. These services include 134 solid waste landfills and 15,000 waste collection vehicles serving approximately 800,000 commercial and industrial customers as well as 12 million residential customers and contracts with nearly 1,800 municipalities. In addition, our 14 trash-to-energy facilities produce energy from MSW for the 400 communities they serve. Finally, our recycling programs provide curbside recycling to 5.2 million households in more than 600 communities and 75,000 commercial customers throughout the United States.

Because all of these services could be severely and adversely impacted by inappropriate flow control legislation, we have a strong interest in supporting your efforts to identify a fair and effective resolution of the issues associated with flow control.

We believe that your proposed legislation strikes an appropriate balance between the need to protect existing investments and arrangements upon which there has been actual reliance, and the need to foster and maintain vigorous and free competition in the provision of waste management services. Your bill would do so by grandfathering flow control measures that have been implemented by designation of particular facilities before May 15, 1994, and authorizing prospective flow control after that date of only household MSW and certain recyclables under specified conditions and procedures, including a competitive process and a finding that flow control is needed. We consider these elements to be critically important, and we are pleased that you included them.

We look forward to working with you in support of your flow control legislation and in seeking to strike a similar balance in interstate waste legislation that honors and protects good faith investments and arrangements made in reliance upon the Commerce Clause.

Sincerely,

ROBERT EISENBUD,
Director of Legislative Affairs.

INSTITUTE OF SCRAP RECYCLING INDUSTRIES, INC.,
Washington, DC, June 16, 1994.

Senator FRANK LAUTENBERG,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR LAUTENBERG: Thank you very much for your concerted efforts to bring together a consensus of all interested parties around legislation to address the issue of flow control. Well before the U.S. Supreme Court created the current furor over flow control by handing down the *Carbonne* v. *Clarkstown* case, you and your staff were laying the necessary ground work for achieving compromise on this delicate issue.

The Institute of Scrap Recycling Industries (ISRI) appreciates your work and supports the draft legislation you have put forward, as it applies to recyclables, because it resolves a number of very important flow control issues in a manner that will benefit recycling. First, the bill clearly acknowledges the distinction between municipal solid waste and recyclable material. While some local governments might feel the need for a type of flow control in order to plan for future waste contingencies, the bill recognizes that where this need has been asserted, it has been related to a "disposal" problem and that recycling is the opposite of disposal rather than a subset of it. Your legislation prohibits, in all prospectively enacted flow control ordinances, the seizure by a governmental entity of recyclable materials which the owner does not voluntarily relinquish.

Second, for existing flow control requirements, the bill limits the effects of flow control on recyclable material which the owner does not relinquish willingly, to situations where: 1) a governmental entity has enacted a law which instituted flow control over recyclables prior to May 15, 1994, 2) that entity has designated a facility, prior to May 15, 1994, to which such recyclables must be taken, 3) that entity has actually applied the flow control requirement to recyclables before May 15, 1994, and the recyclables to which the government entity seeks to flow control are of the same commodity type as those over which it asserted authority prior to May 15, 1994. We believe that this grandfathering requirement is sufficiently and appropriately narrow to assure that the nationwide market for recycled content materials will not be Balkanized.

Finally, the definition section of the bill clearly states that the wastes generated during the recycling process are industrial solid wastes and therefore exempt from flow control.

Again, ISRI appreciates your foresight and interest in recycling.

Sincerely yours,

HERSCHEL CUTLER,
Executive Director.

ADDITIONAL COSPONSORS

S. 340

At the request of Mr. HEFLIN, the names of the Senator from Michigan [Mr. RIEGLE] and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 340, a bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the Act with respect to alternate uses of new animal drugs and new drugs intended for human use, and for other purposes.

S. 1020

At the request of Mr. WOFFORD, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1020, a bill to promote economic growth and job creation in the United States by facilitating worker involvement in the development and implementation of advanced workplace technologies and advanced workplace practices and by identifying and disseminating information on best workplace practices.

S. 1208

At the request of Mr. WOFFORD, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 1208, a bill to authorize the minting of coins to commemorate the historic buildings in which the Constitution of the United States was written.

S. 1805

At the request of Mr. WARNER, the names of the Senator from Vermont [Mr. JEFFORDS] and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 1805, a bill to amend title 10, United States Code, to eliminate the disparity between the periods of delay provided for civilian and military retiree cost-of-living adjustments in the Omnibus Budget Reconciliation Act of 1993.

S. 1889

At the request of Mr. CHAFEE, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 1889, a bill to amend title XIX of the Social Security Act to make certain technical corrections relating to physicians' services.

S. 1951

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 1951, a bill to establish a comprehensive system of reemployment services, training and income support for permanently laid off workers, to facilitate the establishment of one-stop career centers to serve as a common point of access to employment, education and training information and services, to develop an effective national labor market information system, and for other purposes.

S. 2062

At the request of Mr. INOUYE, the names of the Senator from Louisiana [Mr. JOHNSTON] and the Senator from Wisconsin [Mr. FEINGOLD] were added as cosponsors of S. 2062, a bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to permit the movement in interstate commerce of meat and meat food products and poultry products that satisfy State inspection requirements that are at least equal to Federal inspection standards, and for other purposes.

S. 2073

At the request of Mr. SMITH, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Kansas [Mr. DOLE], the Senator from Indiana [Mr. LUGAR], the Senator from Nevada [Mr. REID], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 2073, a bill to designate the U.S. courthouse that is scheduled to be constructed in Concord, NH, as the "Warren B. Rudman United States Courthouse", and for other purposes.

S. 2120

At the request of Mr. INOUYE, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from Arkansas [Mr. PRYOR], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 2120, a bill to amend and extend the authorization of appropriations for public broadcasting, and for other purposes.

S. 2177

At the request of Mr. LAUTENBERG, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 2177, a bill to ensure effective congressional oversight of overseas military base support carried out by NATO host countries for the United Sates as payments-in-kind for release of United States overseas military facilities to such countries and to reduce the deficit.

S. 2178

At the request of Mr. DASCHLE, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2178, a bill to provide a program of compensation and health research for illnesses arising from service in the Armed Forces during the Persian Gulf war.

S. 2183

At the request of Mr. ROBB, the names of the Senator from Indiana [Mr. LUGAR], the Senator from Arizona [Mr. DECONCINI], the Senator from Tennessee [Mr. MATHEWS], and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of S. 2183, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the signing of the World War II peace accords on September 2, 1945.

S. 2215

At the request of Mr. LIEBERMAN, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 2215, a bill to establish rules governing product liability actions against raw materials and bulk component suppliers to medical device manufacturers, and for other purposes.

SENATE JOINT RESOLUTION 158

At the request of Mr. WOFFORD, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of Senate Joint Resolution 158, a joint resolution to designate both the month of August 1994 and the month of August 1995 as "National Slovak American Heritage Month."

SENATE JOINT RESOLUTION 165

At the request of Mr. COCHRAN, the names of the Senator from Indiana [Mr. COATS], the Senator from West Virginia [Mr. BYRD], and the Senator from North Dakota [Mr. DORGAN] were added as cosponsors of Senate Joint Resolution 165, a joint resolution to designate the month of September 1994 as "National Sewing Month."

SENATE JOINT RESOLUTION 182

At the request of Mr. JOHNSTON, the names of the Senator from Rhode Island [Mr. PELL] and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of Senate Joint Resolution 182, a joint resolution to designate the year 1995 as "Jazz Centennial Year."

SENATE JOINT RESOLUTION 196

At the request of Mr. SMITH, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Virginia [Mr. ROBB], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of Senate Joint Resolution 196, a joint resolution designating September 16, 1994, as "National POW/MIA Recognition Day" and authorizing display of the National League of Families POW/MIA flag.

SENATE JOINT RESOLUTION 198

At the request of Mr. PRYOR, the names of the Senator from North Dakota [Mr. DORGAN], the Senator from South Carolina [Mr. THURMOND], the Senator from Louisiana [Mr. JOHNSTON], the Senator from California [Mrs. BOXER], the Senator from Michigan [Mr. LEVIN], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of Senate Joint Resolution 198, a joint resolution designating 1995 as the "Year of the Grandparent."

AMENDMENT NO. 1472

At the request of Mr. HARKIN the names of the Senator from Illinois [Mr. SIMON], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Nevada [Mr. REID], the Senator from South Dakota [Mr. DASCHLE], the Senator from Massachusetts [Mr. KERRY], the Senator from Hawaii [Mr. INOUYE], the Senator from Colorado [Mr. CAMPBELL], the Senator from Alaska [Mr. STEVENS], the Senator from Washington [Mr. GORTON], the Senator from South Carolina [Mr. THURMOND], the Senator from Nebraska [Mr. EXON], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from California [Mrs. BOXER], the Senator from Wyoming [Mr. SIMPSON], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Ohio [Mr. METZENBAUM], the Senator from Vermont [Mr. LEAHY], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of amendment No. 1472 intended to be proposed to S. 1757, a bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance

practices, to promote choice in health care, and to ensure and protect the health care of all Americans.

AMENDMENT NO. 1473

At the request of Mr. HARKIN the names of the Senator from Illinois [Mr. SIMON], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Nevada [Mr. REID], the Senator from South Dakota [Mr. DASCHLE], the Senator from Massachusetts [Mr. KERRY], the Senator from Hawaii [Mr. INOUYE], the Senator from Colorado [Mr. CAMPBELL], the Senator from Alaska [Mr. STEVENS], the Senator from Washington [Mr. GORTON], the Senator from South Carolina [Mr. THURMOND], the Senator from Nebraska [Mr. EXON], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from California [Mrs. BOXER], the Senator from Wyoming [Mr. SIMPSON], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Ohio [Mr. METZENBAUM], the Senator from Vermont [Mr. LEAHY], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of Amendment No. 1473 intended to be proposed to S. 1779, a bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans.

AMENDMENT NO. 1476

At the request of Mr. HARKIN the names of the Senator from Illinois [Mr. SIMON], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Nevada [Mr. REID], the Senator from South Dakota [Mr. DASCHLE], the Senator from Massachusetts [Mr. KERRY], the Senator from Hawaii [Mr. INOUYE], the Senator from Colorado [Mr. CAMPBELL], the Senator from Alaska [Mr. STEVENS], the Senator from Washington [Mr. GORTON], the Senator from South Carolina [Mr. THURMOND], the Senator from Nebraska [Mr. EXON], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from California [Mrs. BOXER], the Senator from Wyoming [Mr. SIMPSON], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Ohio [Mr. METZENBAUM], the Senator from Vermont [Mr. LEAHY], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of Amendment No. 1476 intended to be proposed to S. 1775, a bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care for all Americans.

SENATE CONCURRENT RESOLUTION 71—RELATING TO CAPITAL IMPROVEMENT CONTROL

Mr. LIEBERMAN submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 71

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. SHORT TITLE AND PURPOSE.

(a) SHORT TITLE.—This resolution may be cited as the "Capital Improvement Control Resolution".

(b) PURPOSE.—The purpose of this resolution is to require that each large capital improvement project in the United States Capitol area with estimated total costs greater than $3,000,000 be approved by a resolution of the appropriate House of Congress.

SEC. 2. DEFINITIONS.

For purposes of this resolution—

(1) the term "United States Capitol area" means the buildings and grounds of the United States Capitol, the Library of Congress, and the congressional offices; and

(2) the term "large capital improvement project" means a project with an estimated total cost greater than $3,000,000 involving new construction, reconstruction of existing buildings, or acquisition of equipment with a useful life of greater than 5 years.

SEC. 3. CAPITAL IMPROVEMENT RESOLUTION.

(a) CAPITAL IMPROVEMENT RESOLUTION.—No funds shall be obligated for any large capital improvement project in the United States Capitol area unless the House of Congress with jurisdiction over the project has approved the project through the enactment of a resolution described in subsection (b) (referred to as a "Capital Improvement Resolution)".

(b) FORM OF RESOLUTION AND REPORT.—

(1) RESOLUTION.—A Capital Improvement Resolution shall—

(A) include a statement specifically approving the large capital improvement project and identifying the costs of such project; and

(B)(i) if such project only affects 1 House of Congress, be in the form of a simple resolution of such House; or

(ii) if such project affects both Houses, be in the form of a concurrent resolution.

(2) REPORT.—The resolution shall be accompanied by a report from a committee with jurisdiction over the capital improvement project which shall include—

(A) a description of the capital improvement project;

(B) the justification for making the capital improvement;

(C) the alternatives considered, including the costs of the alternatives, and the reasons for rejecting the alternatives;

(D) the total estimated costs for the capital improvement project; and

(E) the maximum amount which may be appropriated for the project.

SEC. 4. WAIVER OF RESOLUTION.

An affirmative vote of three-fifths of Members of the appropriate House of Congress, duly chosen and sworn, shall be required to waive any requirement of this Act.

Mr. LIEBERMAN. Mr. President, today I am submitting a concurrent resolution to improve the process for authorizing large projects for the buildings and grounds of the U.S. Capitol. The current controversy over the staggering cost of renovating the Senate subway illustrates the need for a more thorough airing of major construction projects in the Capitol area. The $18-million pricetag for the subway renovation is difficult to justify, especially amid reports that less expensive alternatives existed. It is true that those alternatives did not involve state-of-the-art equipment that the Senate subway will soon boast. But it is arguable they would have done the job for much less money. For example, one alternative of replacing the existing subway cars with new cars of a similar design would have cost $3 million. Would the Senate have approved an $18 million plan had it known that a $3 million alternative existed? I am certain we all would have wanted a fuller explanation of the benefits that would justify the greater expenditure.

Almost no information was provided to the full Senate about the subway project before it began. The full Senate was never given a report regarding projected expenditures, estimated total cost, or reasons for rejecting alternative proposals. The appropriations for the subway were not given a separate line-item.

At a time when the Federal debt is measured in trillions and public faith in Congress is very low, we must make sure that all major projects to improve the Capitol area receive careful scrutiny. Since excessive expenditures on renovation projects to the Capitol reflect badly on every Member of Congress and on the institution, every Member should have the information necessary to make a decision and an opportunity to vote on the proposal. The concurrent resolution which I am introducing today would provide both. The Capital Improvement Control Resolution of 1994 requires that all major renovations and construction projects affecting the buildings and grounds of the U.S. Capitol area must be approved by a vote on a resolution by the appropriate House of Congress. The resolution must be accompanied by a report on the project which provides (1) a description of the project, (2) the justification for the project, (3) the alternatives considered, along with their costs and reasons for their rejection, (4) the total estimated costs for the project, and (5) the maximum amount which may be spent on the project without requiring passage of another resolution. Only large projects, defined as these with estimated total costs of over $3 million, would be affected by this new procedure. The requirements of the bill could not be waived without an affirmative vote by three-fifths of Members duly chosen and sworn.

I believe that full disclosure and open debate on major construction projects involving the Capitol grounds will ensure that the costs are reasonable and

necessary. The Capital Improvement Control Resolution offers a small but significant step toward restoring public respect for this institution.

AMENDMENTS SUBMITTED

1995 TREASURY-POSTAL SERVICE APPROPRIATIONS ACT

GRASSLEY (AND OTHERS) AMENDMENT NO. 1823

Mr. GRASSLEY (for himself, Mr. SHELBY, Mr. LOTT, Mr. WALLOP, Mr. BURNS, Mr. FAIRCLOTH, Mr. ROTH, and Mr. SMITH) proposed an amendment to the bill (H.R. 4539) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1995, and for other purposes; as follows:

On page 15, line 17, strike out "$4,358,180,000" and insert in lieu thereof "$3,953,180,000."

On page 15, line 19, beginning with "Provided" strike out all through the semicolon on line 21 and insert in lieu thereof the following; "Provided that no funds appropriated under this heading may be used for the enhanced tax compliance initiative for fiscal year 1995 as proposed by the Internal Revenue Service".

ROTH (AND PRYOR) AMENDMENT NO. 1824

Mr. ROTH (for himself and Mr. PRYOR) proposed an amendment to the bill, H.R. 4539, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING CANADA'S RESTRICTIONS ON IMPORTS OF UNITED STATES CHICKENS.

(a) FINDINGS.—The Senate makes the following findings:

(1) The United States chicken industry is a highly competitive and growing industry which employs over 200,000 people, has over 25,000 family farms, and has significant production in over 28 States.

(2) United States exports of chickens grew by 32 percent in volume in 1993 and exports are increasingly important to the continued economic vitality of the chicken industry.

(3) Canada's chicken supply management system has severely limited the importation of United States chickens to Canada since it was imposed over 15 years ago, and its elimination would lead to between $350,000,000 and $700,000,000 in new exports to Canada and between 7,000 and 14,000 new jobs in the United States.

(4) Canada's chicken supply management system protects Canadian chicken growers while seriously hurting both United States and Canadian food processors, retailers, and consumers.

(5) The United States and Canada have a free trade agreement which calls for the elimination of all tariffs and prohibits the imposition of new tariffs on any goods traded bilaterally.

(6) The goals of the Uruguay Round Agreement on Agriculture are to liberalize and expand trade in agriculture and to eliminate distortions to such trade.

(7) Canada refused to negotiate the issue of elimination of its severe trade restrictions on the importation of United States chickens as part of the North American Free Trade Agreement (hereafter referred to as "NAFTA") because the issue was part of the global trade negotiations under the Uruguay Round.

(8) The Uruguay Round has now concluded and the former and current United States Trade Representative, as well as other key cabinet-level officials, have stated that Canada will be in violation of its NAFTA obligations if it does not eliminate its newly imposed tariffs on chickens.

(9) The United States chicken industry has waited patiently for access to Canadian markets, which would be the United States' largest export market for chickens if it were fully open.

(10) NAFTA should lead to free and completely open trade for the chicken industry between the United States and Canada, as it will between the United States and Mexico.

(11) The United States and Canada are currently holding discussions to resolve this and other bilateral agricultural matters.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the United States should reserve all current and future rights to bring Canada into compliance with its tariff obligations under NAFTA, including the use of bilateral or multilateral dispute settlement proceedings; and

(2) any agreement that is negotiated between the United States and Canada on chickens should lead to—

(A) substantial and immediate new market access opportunities for United States chicken exports in excess of the levels that have already been achieved; and

(B) a commitment from Canada before the effective date of the Uruguay Round Agreements which—

(i) establishes a timeframe for the elimination of all of Canada's tariffs on chickens; and

(ii) provides for growth in market access levels for United States chicken exports to Canada during the period such tariffs are being phased out.

FAIRCLOTH AMENDMENT NO. 1825

Mr. FAIRCLOTH proposed an amendment to the bill H.R. 4539, supra; as follows:

At the appropriate place in the bill, add the following: "Notwithstanding any provision of law, the President must certify to Congress, annually, that no person or persons with direct or indirect responsibility for administering the Executive Office of the President's Drug-Free Workplace Plan are themselves subject to the program of individual random drug testing."

BROWN AMENDMENT NO. 1826

Mr. BROWN proposed an amendment to the bill H.R. 4539, supra; as follows:

At the appropriate place in the bill, add the following new section:

SEC. . No part of any appropriation contained in this Act may be used to pay for the expenses of travel of employees, including employees of the Executive Office of the President, or other individuals, not directly responsible for the discharge of the official Governmental tasks and duties for which the travel is undertaken:

Provided, That this restriction shall not apply to family of the President, Members of Congress, Heads of State of a foreign country or their designee(s).

DECONCINI AMENDMENT NO. 1827

Mr. DECONCINI proposed an amendment No. 1827 to the amendment No. 1826, proposed by Mr. BROWN, to the bill H.R. 4539, supra; as follows:

At the end of the pending amendment, add the following: "or other individuals so-designated by the President."

DECONCINI AMENDMENT NO. 1828

Mr. DECONCINI proposed an amendment to the bill H.R. 4539, supra; as follows:

On page 63, line 20, strike "$5,000,000" and insert "$5,250,000."

On page 98, line 12, strike the words "one-fifth".

On page 99, add the following between lines 11 and 12:

(D) The applicable amount under this paragraph shall be zero if neither subparagraph (A), subparagraph (B), nor subparagraph (C) applies.

(3) The Office of Personnel Management shall discuss with and consider the views of the Federal Prevailing Rate Advisory Committee in carrying out the Office's responsibilities with respect to this paragraph.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, and no employee covered by section 5348 of such title, may be paid during the periods for which subsection (e) is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purposes of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule that was not in existence on September 30, 1994, shall be determined under regulations prescribed by the Office of Personnel Management.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1994, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) The provisions of this section shall apply with respect to pay for services performed by any affected employee on or after October 1, 1994.

(f) For the purpose of administering any provision of law (including section 5431 of title 5, United States Code, and any rule or regulation, that provides premium pay, retirement, life insurance, or any other employee benefit) that requires any deduction or contribution, or that imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section shall be considered to permit or require the payment in any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary

to ensure the recruitment and retention of qualified employees.

(i) The Office of Personnel Management may prescribe any regulations which may be necessary to carry out this section.

On page 113, line 5, strike "in" and insert in lieu thereof "on";

On page 113, line 10, insert after "SF-86" the words "or equivalent form";

On page 113, line 11, insert after "not," the word "within";

On page 113, line 16, strike "White House" and insert in lieu thereof "access".

On page 84, line 19, strike all through page 85, line 13 and insert the following:

SECTION 1. The allowances provided to employees at rates set under section 5941 of title 5, United States Code, and Executive Order Numbered 10000 as in effect on the date of the enactment of this Act may not be reduced during the period beginning on the date of the enactment of this Act through December 31, 1996: *Provided*, That no later than March 1, 1996, the Office of Personnel Management shall conduct a study and submit a report to the Congress proposing appropriate changes in the method of fixing compensation for affected employees, including any necessary legislative changes. Such study shall include—

(1) an examination of the pay practices of other employers in the affected areas;

(2) a consideration of alternative approaches to dealing with the unusual and unique circumstances of the affected areas, including modifications to the current methodology for calculating allowances to take into account all costs of living in the geographic areas of the affected employees; and

(3) an evaluation of the likely impact of the different approaches on the Government's ability to recruit and retain a well-qualified workforce.

For the purpose of conducting such study and preparing such report, the Office may accept and utilize funds made available to the Office pursuant to court approval.

MITCHELL-DOLE AMENDMENT NO. 1829

Mr. DECONCINI (for Mr. MITCHELL, for himself and Mr. DOLE) proposed an amendment to the bill H.R. 4539, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . CONGRESSIONAL AWARD PROGRAM MEDALS.

Section 3 of the Congressional Award Act (2 U.S.C. 802) is amended—

(1) in subsection (a)—

(A) by striking "gold, silver, and bronze"; and

(B) by striking the last sentence and inserting the following: "Each medal shall consist of gold-plate over bronze, rhodium over bronze, or bronze and shall be struck in accordance with subsection (f).'"; and

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

"(f) CONGRESSIONAL AWARD PROGRAM MEDALS.—

"(1) DESIGN AND STRIKING.—The Secretary of the Treasury shall strike the medals described in subsection (a) and awarded by the Board under this Act. Subject to subsection (a), the medals shall be of such quantity, design, and specifications as the Secretary of the Treasury may determine, after consultation with the Board.

"(2) NATIONAL MEDALS.—The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be charged against the Numismatic Public Enterprise Fund such amounts as may be necessary to pay for the cost of the medals struck pursuant to this Act.".

DECONCINI AMENDMENT NO. 1830

Mr. DECONCINI proposed an amendment to the bill H.R. 4539, supra; as follows:

On page ___, insert between lines ___ and ___ the following new section:

SEC. ___. CUSTOMS SERVICE INSPECTORS AND CANINE ENFORCEMENT OFFICERS AS LAW ENFORCEMENT OFFICERS FOR FEDERAL RETIREMENT SYSTEMS.

(a) SHORT TITLE.—This section may be cited as the "Customs Service Inspectors and Customs Canine Enforcement Officers Retirement Act of 1994".

(b) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) DEFINITIONS.—Section 8331 of title 5, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (25);

(B) by striking out the period at the end of paragraph (26) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new paragraphs:

"(27) 'customs inspector' means an employee of the United States Customs Service—

"(A) who—

"(i) elects to make contributions and be covered in accordance with section 4 of the Customs Service Inspectors and Customs Canine Enforcement Officers Retirement Act of 1994; or

"(ii) is hired after the effective date of such Act; and

"(B) the duties of whose position are primarily to—

"(i) enforce laws and regulations governing the importing and exporting of merchandise;

"(ii) process and control passengers and baggage;

"(iii) interdict smuggled merchandise and contraband; and

"(iv) apprehend (if warranted) persons involved in violations of customs laws,

including an employee engaged in this activity who is transferred to a supervisory or administrative position; and

"(28) 'customs canine enforcement officer' means an employee of the United States Customs Service—

"(A) who—

"(i) elects to make contributions and be covered in accordance with section 4 of the Customs Service Inspectors and Customs Canine Enforcement Officers Retirement Act of 1994; or

"(ii) is hired after the effective date of such Act; and

"(B) the duties of whose position are primarily to work directly with a dog in an effort to—

"(i) enforce laws and regulations governing the importing and exporting of merchandise;

"(ii) process and control passengers and baggage;

"(iii) interdict smuggled merchandise and contraband; and

"(iv) apprehend (if warranted) persons involved in violations of customs laws,

including an employee engaged in this activity who is transferred to a supervisory or administrative position.".

(2) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—Section 8334 of title 5, United States Code, is amended—

(A) in subsection (a)(1), by striking out "a law enforcement officer," and inserting in lieu thereof "a law enforcement officer, a customs inspector, a customs canine enforcement officer,"; and

(B) in the table in subsection (c), by striking out "and firefighter for firefighter service." and inserting in lieu thereof ", firefighter for firefighter service, customs inspector for customs inspector service, and customs canine enforcement officer for customs canine enforcement officer service".

(3) MANDATORY SEPARATION.—Section 8335(b) of title 5, United States Code, is amended in the second sentence by striking out "law enforcement officer" and inserting in lieu thereof "law enforcement officer, a customs inspector, or a customs canine enforcement officer".

(4) IMMEDIATE RETIREMENT.—Section 8336(c)(1) of such title is amended by striking out "law enforcement officer or firefighter," and inserting "law enforcement officer, a firefighter, a customs inspector, or a customs canine enforcement officer,".

(c) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

(1) DEFINITIONS.—Section 8401 of title 5, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (31);

(B) by striking out the period at the end of paragraph (32) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new paragraphs:

"(33) 'customs inspector' means an employee of the United States Customs Service—

"(A) who—

"(i) elects to make contributions and be covered in accordance with section 4 of the Customs Service Inspectors and Customs Canine Enforcement Officers Retirement Act of 1994; or

"(ii) is hired after the effective date of such Act; and

"(B) the duties of whose position are primarily to—

"(i) enforce laws and regulations governing the importing and exporting of merchandise;

"(ii) process and control passengers and baggage;

"(iii) interdict smuggled merchandise and contraband; and

"(iv) apprehend (if warranted) persons involved in violations of customs laws,

including an employee engaged in this activity who is transferred to a supervisory or administrative position; and

"(34) 'customs canine enforcement officer' means an employee of the United States Customs Service—

"(A) who—

"(i) elects to make contributions and be covered in accordance with section 4 of the Customs Service Inspectors and Customs Canine Enforcement Officers Retirement Act of 1994; or

"(ii) is hired after the effective date of such Act; and

"(B) the duties of whose position are primarily to work directly with a dog in an effort to—

"(i) enforce laws and regulations governing the importing and exporting of merchandise;

"(ii) process and control passengers and baggage;

"(iii) interdict smuggled merchandise and contraband; and

"(iv) apprehend (if warranted) persons involved in violations of customs laws,

including an employee engaged in this activity who is transferred to a supervisory or administrative position.".

(2) IMMEDIATE RETIREMENT.—Section 8412(d) of title 5, United States Code, is amended—

(A) in paragraph (1) by striking out "or firefighter," and inserting in lieu thereof "firefighter, customs inspector, or customs canine enforcement officer,"; and

(B) in paragraph (2) by striking out "or firefighter," and inserting in lieu thereof "firefighter, customs inspector, or customs canine enforcement officer,".

(3) COMPUTATION OF BASIC ANNUITY.—Section 8415(g)(2) of title 5, United States Code, is amended in the sentence following subparagraph (B) by inserting "customs inspector, customs canine enforcement officer," after "firefighter,".

(4) DEDUCTIONS.—Section 8422(a)(2) of title 5, United States Code, is amended—

(A) in subparagraph (A) by inserting "customs inspector, customs canine enforcement officer," after "air traffic controller,"; and

(B) in subparagraph (B) by inserting "customs inspector, customs canine enforcement officer," after "air traffic controller,".

(5) GOVERNMENT CONTRIBUTIONS.—Section 8423(a) of title 5, United States Code, is amended—

(A) in paragraph (1)(B)(i) by inserting "customs inspectors, customs canine enforcement officers," after "law enforcement officers,"; and

(B) in paragraph (3)(A) by inserting "customs inspectors, customs canine enforcement officers," after "law enforcement officers,".

(6) MANDATORY SEPARATION.—Section 8425(b) of title 5, United States Code, is amended in the second sentence by inserting ", customs inspector, or customs canine enforcement officer" after "law enforcement officer".

(e) INCLUSION OF OVERTIME PAY AS BASE PAY FOR CUSTOMS INSPECTORS AND CUSTOMS CANINE ENFORCEMENT OFFICERS.—Section 8331(3) of title 5, United States Code, is amended—

(1) in subparagraph (D) by striking out "and" after the semicolon;

(2) in subparagraph (E) by adding "and" after the semicolon;

(3) by inserting after subparagraph (E) the following new subparagraph:

"(F) with respect to a customs inspector or customs canine enforcement officer as defined under paragraphs (27) and (28), compensation for overtime under section 5542(a), but not to exceed 50 percent of any statutory maximum in overtime pay for customs inspectors or customs canine enforcement officers which is in effect for the year involved;"; and

(4) in the matter following subparagraph (F) (as added by paragraph (3) of this section) by striking out "and (E)" and inserting in lieu thereof "(E), and (F)".

(f) AGENCY CONTRIBUTIONS FOR CUSTOMS INSPECTORS AND CUSTOMS CANINE ENFORCEMENT OFFICERS.—Section 13031(f)(3)(A)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)(A)(i) is amended—

(1) by redesignating subclauses (IV) and (V) as subclauses (V) and (VI), respectively; and

(2) by inserting after subclause (III) the following new subclause:

"(IV) paying agency contributions to the Civil Service Retirement and Disability Fund to match contributions for customs inspectors and customs canine enforcement officers as defined under section 8331 (27) and (28), respectively, in accordance with the Customs Inspectors and Customs Canine Enforcement Officers Retirement Act of 1994;".

(g) OVERTIME AND PREMIUM PAY FOR CUSTOMS INSPECTORS AND CUSTOMS CANINE ENFORCEMENT OFFICERS.—

(1) OVERTIME PAY.—Section 5542(a)(4) of title 5, United States Code, is amended by inserting after "law enforcement officer" the following: "as defined under section 8331(20) or 8401(17), a customs inspector as defined under section 8331(27), and a customs canine enforcement officer as defined under section 8331(28)".

(2) LIMITATION ON PREMIUM PAY.—Section 5547(c) of title 5, United States Code, is amended—

(A) in paragraph (1) by inserting "a customs inspector as defined under section 8331(27) and customs canine enforcement officer as defined under section 8331(28)" after "law enforcement officer"; and

(B) in paragraph (2) by inserting "a customs inspector as defined under section 8331(27) and customs canine enforcement officer as defined under section 8331(28)" after "law enforcement officer".

(h) ADMINISTRATIVE PROVISIONS.—

(1) EMPLOYEE COVERAGE.—No later than 90 days after the effective date of this section, each customs inspector or customs canine enforcement officer shall make an irrevocable election to be covered under chapter 83 or 84 (as the case may be) as amended by this section.

(2) EMPLOYEE CONTRIBUTIONS.—Any individual who has served as a customs inspector or customs canine enforcement officer before the effective date of this section, shall have such service credited and annuities determined in accordance with the amendments made by this section, if such individual makes payment into the Civil Service Retirement and Disability Fund of an amount, determined by the Office of Personnel Management, which would have been deducted and withheld from the basic pay of such individual (including interest thereon) under chapters 83 and 84 of title 5, United States Code, as if such amendments had been in effect during the periods of such service.

(3) AGENCY CONTRIBUTIONS.—No later than 90 days after a payment made by an individual under paragraph (1), the Department of the Treasury shall make a payment into the Civil Service Retirement and Disability Fund of an amount, determined by the Office of Personnel Management, which would have been contributed as a Government contribution (including interest thereon) under chapters 83 and 84 of title 5, United States Code, for the service credited and annuities determined for such individual, as if the amendments made by this section had been in effect during the applicable periods of service.

(4) REGULATIONS.—The Office of Personnel Management shall determine the amount of interest to be paid under this section and may promulgate regulations to carry out the provisions of this section.

(i) RULE OF CONSTRUCTION.—No provision of this section or amendment made by this section shall be construed to provide for treatment of customs inspectors or canine enforcement officers of the United States Customs Service as law enforcement officers for any purpose other than as specifically provided in such provision or amendment.

(j) EFFECTIVE DATE.—The provisions of this section and amendments made by this section shall take effect on the date occurring 90 days after the date of enactment of this Act.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

SUBCOMMITTEE ON WATER AND POWER

Mr. BRADLEY. Mr. President, I would like to announce for my colleagues and the public that a hearing has been scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on the following bills pending before the Subcommittee:

S. 1786, to increase the authorization of appropriations for the Belle Fourche Irrigation Project, and for other purposes;

S. 1988, to authorize the transfer of a certain loan contract to the Upper Yampa Water Conservancy District, and for other purposes;

S. 2066, to expand the Mni Wiconi Rural Water Supply Project, and for other purposes;

S. 2068, to authorize the construction of the Lewis and Clark Rural Water System and to authorize assistance to the Lewis and Clark Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water supply system, and for other purposes;

S. 2124, to provide for private development of power at the Mancos Project, and for other purposes; and

S. 2213, to make applicable the provisions of the act commonly known as the "Warren Act" to the Central Utah Project, Utah, and for other purposes.

The hearing will take place on Tuesday, June 28, 1994 at 2:30 p.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, anyone wishing to submit a written statement for the printed hearing record is welcome to do so. Please send your comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC, 20510, Attention: Leslie Palmer.

For further information, please contact Dana Sebren Cooper, Counsel for the Subcommittee at (202) 224-4531 or Leslie Palmer at (202) 224-6836.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet at 9:30 a.m., in SR-301, Russell Senate Office Building, on Wednesday, June 29, 1994, to hold a markup of executive business. The committee will consider the nominations for reappointment of Lee Ann Elliott, of Virginia, and Danny Lee McDonald, of Oklahoma, to be members of the Federal Election Commission, each for a term expiring April 30, 1999.

The agenda will also include any legislative and administrative items which are ready for committee consideration on the date of the markup.

For further information regarding this markup, please contact Carole

Blessington of the Rules Committee staff on x40278.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for my colleagues and the public that a hearing has been rescheduled before the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony from the scientific community on the scientific and technological basis for radon policy. Indoor radon is receiving some attention in this session of Congress, and bills are pending in the House and the Senate that would substantially increase the amount and scope of Government and regulation related to radon. Research supported by programs under the jurisdiction of the Committee on Energy and Natural Resources can provide important insights into the feasibility and desirability of some of these proposed changes.

The hearing will now take place on Thursday, July 14, 1994 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: Dr. Robert M. Simon.

For further information, please contact Dr. Robert M. Simon of the committee staff at 202/224/7569.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Committee On Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, June 21, beginning at 10 a.m. to conduct a markup of the Housing Choice and Community Investment Act of 1994, S. 2049.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DECONCINI. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Tuesday, June 14, at 9:30 a.m. for a joint hearing with the House Subcommittee on Environment, Energy and Natural Resources, on: Radioactive Contamination at Sewage Treatment Plants.

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

COMMITTEE ON THE JUDICIARY

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, June 21, 1994 to hold a hearing on the nominations of Paul Borman of Detroit, MI to be United States District Judge for the Eastern District of Michigan, Denise Cote of New York, NY to be United States District Judge for the Southern District of New York, John Koeltl of New York NY to be United States District Judge for the Southern District of New York, Rosemary S. Pooler of Syracuse, NY to be United States District Judge for the Northern District of New York and Lewis A. Kaplan of Irvington, NY to be United States District Judge for the Southern District of New York.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, June 21, 1994 at 4:00 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICES

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Subcommittee on the Courts and Administrative Practices of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Tuesday, June 21, 1994 at 10:00 a.m., to hold a hearing on the Foreign Sovereign Immunity Act.

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

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., June 21, 1994, to receive testimony on the proposed location of the Disney's America project and its potential impact on the Manassas National Battlefield Park and other significant historic sites in northern Virginia.

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

ADDITIONAL STATEMENTS

MIDDLETOWN SENIOR CITIZENS HOUSING CORPORATION 20TH ANNIVERSARY

• Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to the Middletown Senior Citizens Housing Corp. 20th anniversary celebration of Daniel Towers and Bayshore Village, two senior citizen housing apartment complexes that are home to almost 200 families in Monmouth County, NJ.

In their attempt to meet the ongoing needs of senior citizens in the Monmouth area, the Township of Middletown established Daniel Towers as the first of four buildings designed exclusively for seniors. Under the auspices of the Department of Housing and Urban Development, this landmark building has successfully maintained an inviting and amiable atmosphere for 20 years. In conjunction with this project, the Bayshore Village was also founded, with the help of the New Jersey Housing and Mortgage Finance Agency, and has also maintained a successful housing complex for the last two decades.

I commend both the Middletown Township Housing Authority and the Middletown Senior Citizens Housing Corp. for their outstanding efforts on behalf of seniors in Monmouth County. Organizations and people who are willing to commit their time and energy to helping others enhance not only the lives of those whom they affect directly, but also the lives of everyone in the community.•

TRIBUTE TO W.T. YOUNG

• Mr. MCCONNELL. Mr. President, I rise today to recognize and congratulate William T. Young, an outstanding Kentuckian whose horse, Tabasco Cat, most recently won the Preakness and the Belmont Stakes. Mr. Young's recent victories represent the climax of his many achievements.

Throughout his life, W.T. Young has succeeded in both his business and in his service to the Lexington community. Born February 15, 1918, Young received his undergraduate degree in mechanical engineering from the University of Kentucky. After serving in World War II, Mr. Young returned home and founded W.T. Young Foods Inc. where he processed peanut butter. In 1955 the peanut butter was marketed under the Jif brand, and Mr. Young sold his company to Proctor & Gamble.

Three years later, Mr. Young founded W.T. Young Storage Inc. which provides general warehousing, shipping, and trucking services. He also founded a frozen food distribution operation while serving as chairman of the Royal Crown Cola Co.

Along with his business success, W.T. Young has also devoted considerable time and money to educational and civic concerns throughout Kentucky. He has endowed a scholarship program and served as a major benefactor and chairman of the board of Transylvania University in Lexington. Mr. Young is also the current chairman of Shaker Village located in Pleasant Hill, KY. He actively encourages Kentucky tourism, and strongly supports the idea that Kentucky's heritage be preserved. W.T. Young has also been very active in Kentucky politics, for he served as a one-dollar-a-year vice chairman of the

State cabinet during the administration of former Kentucky Governor John Y. Brown, Jr.

Young's interest in breeding thoroughbreds began in the 1970's and he has gradually found successes in the top levels of racing and breeding. Tabasco Cat, Young's most famous horse, has captured the hearts of many horse-racing fans, especially after his victories in two of the coveted Triple Crown races. Overlooking farms in Lexington, I suspect that even at 76, W.T. Young still has many winning racehorses ahead of him.

Young's recent winning of the Preakness and Belmont Stakes is a great accomplishment for a man of so many achievements, but Mr. Young's dedication and service to the Lexington business and civic community must not go unrecognized.

Mr. President, I congratulate W.T. Young for his many efforts, both personal and professional, to further enhance the quality of Lexington and the State of Kentucky. Please insert the following article from the Blood Horse into the RECORD.

The article follows:

[From the Blood Horse, May 28, 1994]

THE JOY OF BEING YOUNG (AND REYNOLDS)

(By David L. Heckerman)

William T. Young and David P. Reynolds, gin rummy-playing buddies and co-owners and co-breeders of Preakness Stakes (gr.I) winner Tabasco Cat, are racing's 1994 version of the Sunshine Boys. The 76-year-old Young and 78-year-old Reynolds have long traveled in the industry's best circles and long operated important racing and breeding programs. Their first classic victory, after years of pleasurable aspiration, represents the achievement of a lifetime goal. As such, it was especially rewarding.

"This has to be the greatest thrill I've ever had," said the reserved and disciplined Young, whose string of business successes and philanthropic achievements have made him into one of Kentucky's wealthiest and most influential citizens. "You grope for words to explain what it is like. The elation is simply marvelous."

"This horse has been a joy to me since last fall," said the openly delighted Reynolds, a former prep-school quarterback who lost his right eye in a college polo match, then went on to head his family's aluminum and metals processing firm. "I've been telling people since he won his first race that he could be a Triple Crown winner. He sure showed us today what he's got."

Young and Reynolds have been friends for decades, since the days when Reynolds was ascending the ladder at the Reynolds Metals office in Louisville. The two men attended the 1985 Breeders' Cup together at Aqueduct, when Young's two-year-old colt Storm Cat was overtaken by Tasso at the wire of the Breeders' Cup Juvenile (gr.I).

"Storm Cat couldn't have been beaten by more than an eighth of an inch, and I can still hear Bill saying, 'Well, we lost, but we've still got a good colt here,'" said Reynolds. "When Storm Cat went to stud, he told me I should send the best mare I had to him, and we would do a foal-sharing. We tried it two or three times, and it didn't produce a lot to brag about. Then we got Tabasco Cat."

As co-owners of a classic contender, Young and Reynolds tossed a coin to see whose colors Tabasco Cat would carry in the Kentucky Derby (gr. I). Young won the toss, and the colt carried his Overbrook Farm colors to a sixth-place finish at Churchill Downs. By terms of the agreement, Tabasco Cat raced in the Preakness under Reynolds' purple and white silks.

"I told Bill, 'Look whose colors they're painting up there on that weathervane now,'" Reynolds said, with an impish laugh, minutes after Tabasco Cat's victory. "Those colors look so good, I can see them with my glass eye."

"The greatest thing about this win to me is that I won it with one of my dearest friends," said Young. "It's been a real pleasure to own this horse and race him with David Reynolds. He's a marvelous individual and a dear, dear friend."

"Bill's got a silver tongue to go with his silver hair," smiled Reynolds, "but I like to hear the things that he says."

MULTI-FACETED MAN

Owing to one of his early successful enterprises, W.T. Young has been described in some racing stories as a former peanut butter manufacturer. That is like describing Thomas Edison as a former electrician. Both descriptions are accurate, but neither captures the full breadth of the man.

Born Feb. 15, 1918, Young received his undergraduate degree in mechanical engineering from the University of Kentucky in 1939. After World War II, he founded W.T. Young Foods Inc. in Lexington to process peanut butter. Later, the peanut butter was marketed under the Jif brand. Young sold his company to Proctor & Gamble in 1955.

Three years later, Young founded W.T. Young Storage Inc., which still provides general warehousing, shipping, and trucking services. He also served for 20 years as chairman of Royal Crown Cola Co. Among other current businesses are frozen food distribution.

On another front, Young was an early investor in the Humana profit-making health-care enterprises, based in Louisville. He benefited substantially when the value of Humana stock spiraled upward in the 1980s.

In more recent years, Young has devoted considerable portions of his time and money to educational and civic concerns. He has endowed a scholarship program and served as a major benefactor and chairman of the board of Transylvania University in Lexington. He is the current chairman of Shaker Village at Pleasant Hill, Ky., a restored historic community and tourist attraction that seeks to maintain a portion of Kentucky heritage.

Young served as a $1-a-year-vice chairman of the state cabinet in the administration of former Kentucky Gov. John Y. Brown Jr., who was a guest in the Tabasco Cat party at this year's Preakness. At his classic-winning partner's invitation, Young also served from 1985–91 on the board of Reynolds Metals.

Young owned his first Thoroughbreds in the 1970s and began a steady move toward the top levels of racing and breeding in the 1980s. Overbrook Farm currently spreads over 1,600 acres of pastures and wooded hillsides southeast of Lexington. Its immediate neighbors include Wimbledon and Juddmonte Farms to the east and Lexington's exclusive Harland Estates subdivision to the west.

Storm Cat was Young's first major stakes competitor. He has been followed by such other grade I winners as Grand Canyon, Corporate Report, Deposit Ticket, Salt Lake, Patches, Cuddles, and Seaside Attraction. The last named captured the Kentucky Oaks (gr. I) in 1990, giving Young the first half of a double coveted by every Bluegrass Thoroughbred breeder. Union City, who started at odds of 5.90–1 in the 1993 Kentucky Derby, and Tabasco Cat, who started at 6.10–1 this year, have given Young his best chances thus far at completing the double.

While Union City sustained a fatal injury in the 1993 Preakness, Tabasco Cat's victory gave Young his first classic success. "We left here last year as sad as we could be, and this year we're leaving on cloud 10 or 15," Young said after the Preakness.

One year ago, Young stood firmly behind trainer D. Wayne Lukas in the aftermath of Union City's injury. "Lukas has been Overbrook's trainer for five years, during which time the care and condition of our horses has been superb by any standard. We have never had any reason to question his judgment and integrity in all matters, including the care of our horses. He has our continued confidence," Young said in a prepared statement at the time.

This year, Lukas acknowledged his clients' support after the Preakness. "David Reynolds and Bill Young stayed with me and supported our program in a difficult time, and I'm just tickled for them," Lukas said.

SPORTSMAN AND BUSINESSMAN

David Reynolds was born in Bristol, Tenn., on June 16, 1915, and currently resides in Richmond, Va., near the headquarters of Reynolds Metals, where he is listed as chairman emeritus. He was a classmate and all-around carousing buddy of the late Kentucky breeder Warner L. Jones Jr. at Lawrenceville Prep.

At Princeton University, Reynolds ruptured a ligament in football practice, lost an eye in a polo match, and received a bachelor's degree in business administration. The combination of those events soon launched him into lifetime pursuits as an avid golfer and an executive of the family business, which was founded by his father, the late Richard S. Reynolds.

When Reynolds was based in Louisville, Jones ushered him into the ranks of Thoroughbred ownership. Reynolds' wife of 48 years was a native Kentuckian, Margaret Harrison, whose father, William Harrison, once served as mayor of Louisville. With that connection, Mrs. Harrison "cried every year when they played 'My Old Kentucky Home' at the Derby," Reynolds remembered after the Preakness. She died in 1992.

Prior to Tabasco Cat, Reynolds' best runners were the fillies Small Raja and Lady Dean. Small Raja captured Pimlico's Black-Eyed Susan Stakes (gr. II) on the day before the 1977 Preakness and later won the Monmouth Oaks (gr. I) for her owner's first grade I victory. Lady Dean won eight stakes, three of them graded, at Mid-Atlantic and Northeastern tracks in 1981–82.

Reynolds currently owns about 25 broodmares. Most are boarded at either Hermitage Farm near Goshen, Ky., which is operated by Warner Jones' widow Harriett, or Worthington Farms near Glyndon, Md. The latter farm is owned by J.W.Y. Martin Jr., whose wife Glennie is Reynolds' niece.

Several members of Reynolds' family follow racing closely and accompanied him to both the Derby and Preakness. His daughters, Margaret Mackell and Dorothy Brotherton of Richmond, Va., attended both races, Another daughter, Julie Swords of Boulder, Colo., was on hand in Louisville, but watched the Preakness on television in Colorado.

An hour after the Preakness, Reynolds was seated in the Chrysler Triple Crown tent in the Pimlico infield, happily autographing

Preakness Day programs for family members, friends, and wellwishers.

"I'd have to say this is about as good as it gets," Reynolds said. "We might as well just do this again sometime."•

HOMICIDES BY GUNSHOT IN NEW YORK CITY

• Mr. MOYNIHAN. Mr. President, I rise, as has been my practice each week in this session of the 103d Congress, to announce to the Senate that during the last week, 19 people were killed in New York City by gunshot, bringing this year's total to 462.•

BIOMATERIALS ACCESS ASSURANCE ACT OF 1994—S. 2215

• Mr. DURENBERGER. Mr. President, I rise today to join my friend and colleague from Connecticut, Mr. LIEBERMAN, in introducing the Biomaterials Access Assurance Act of 1994.

This bill, in my opinion, represents a significant step forward in reducing the costs of medical devices.

Unless we reform our product liability system, those who make many of the life-saving medical devices that we take for granted today may no longer be able to purchase the raw materials and components necessary to produce their products. Our current product liability system makes it much too easy to bring lawsuits against raw materials suppliers, and too costly for those suppliers to defend themselves even when they ultimately win.

We in Congress must not allow the 7.4 million people who literally owe the quality of their lives to medical devices—and the countless others who will depend on medical devices in the years to come—to become casualties of an outmoded product liability system.

The bill we are introducing today will help reform our product liability laws to assure raw material suppliers that they will not be held liable unless there is real evidence that they were responsible for putting a defective device on the market.

As my colleague from Connecticut says, this bill is good for both consumers and business. By reducing the likelihood of expensive litigation, it will help ensure that life-saving medical products continue to be available to those Americans whose lives—and quality of life—literally depend on them.

Mr. President, I pledge to do all within my power to ensure that this measure is enacted in this Congress.•

BILL INDEFINITELY POSTPONED—S. 680

Mr. DECONCINI. Mr. President, I ask unanimous consent that Calendar Order No. 322, S. 680, be indefinitely postponed.

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

BILL DISCHARGED AND REFERRED—H.R. 3840

Mr. DECONCINI. Mr. President, I ask unanimous consent that H.R. 3840, a bill to designate the Sam B. Hall Federal Building and U.S. Courthouse, be discharged from the Governmental Affairs Committee and referred to the committee of jurisdiction, the Committee on Environment and Public Works.

Mr. BOND. No objection.

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

AUTHORIZING CORRECTION OF ENGROSSMENT OF SENATE RESOLUTION 229

Mr. DECONCINI. Mr. President, I ask unanimous consent that in the engrossment of Senate Resolution 229 the clerk be authorized to make the following correction: That on page 4, line 22, "Rule XXV" should be changed to "Rule XXVI."

Mr. BOND. No objection.

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

THE CALENDAR

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Senate proceed, en bloc, to the immediate consideration of Calendar Order Nos. 463, 464, 465, and 466; that the resolutions be agreed to and the motions to reconsider laid on the table, en bloc; that any statements relating to these calendar items appear at the appropriate place in the RECORD; and that the consideration of these items appear individually in the RECORD.

Mr. BOND. No objection.

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

RELATING TO THE PRINTING OF A SENATE REPORT

The resolution (S. Res. 196) to authorize the printing of additional copies of a Senate report entitled "Developments in Aging: 1993" was considered and agreed to as follows:

S. RES. 196

Resolved, That there shall be printed for the use of the Special Committee on Aging, in addition to the usual number of copies, the maximum number of copies of volumes 1 and 2 of the annual report of the committee to the Senate, entitled "Developments in Aging: 1993", which additional copies may be printed at a cost not to exceed $1,200.

AMENDING THE STANDING RULES OF THE SENATE

The resolution (S. Res. 224) to amend the Standing Rules of the Senate for the use of the recording studio and mass mailings with respect to uncontested elections was considered and agreed to as follows:

S. RES. 224

Resolved, That (a) paragraph 1 of rule XL of the Standing Rules of the Senate is amended by striking the period at the end and inserting ", unless the candidacy of the Senator in such election is uncontested.".

(b) Paragraph 6(a) of rule XL of the Standing Rules of the Senate is amended by striking the period at the end and inserting ", unless the candidacy of the Senator in such election is uncontested.".

RELATING TO THE PURCHASE OF CALENDARS

The resolution (S. Res. 225) relating to the purchase of calendars, was considered and agreed to as follows:

S. RES. 225

Resolved, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, upon vouchers approved by the chairman of that committee, not to exceed $79,040 for the purchase of one hundred and four thousand 1995 "We The People" calendars. The calendars shall be distributed as prescribed by the committee.

AUTHORIZING THE PLACING OF A BUST OF RAOUL WALLENBERG IN THE CAPITOL

The concurrent resolution (H. Con. Res. 222) authorizing the placement of a bust of Raoul Wallenberg in the Capitol was considered and agreed to.

ORDERS FOR TOMORROW

Mr. DECONCINI. 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., Wednesday, June 22; that following the prayer, the Journal of proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each, with Senator MITCHELL or his designee controlling up to 20 minutes and Senators KENNEDY and KASSEBAUM controlling up to 20 minutes total, with Senator WELLSTONE recognized for up to 10 minutes and Senator CAMPBELL recognized for up to 5 minutes; that at 10 a.m., the Senate then resume consideration of H.R. 4539, the Treasury appropriations bill, under the provisions and limitations as previously ordered.

Mr. BOND. No objection.

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

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. DECONCINI. Mr. President, if there is no further business to come before the Senate, and I see no other Senator seeking recognition, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 9:25 p.m., recessed until Wednesday, June 22, 1994, at 9 a.m..

NOMINATIONS

Executive nominations received by the Senate June 21, 1994:

THE JUDICIARY

MARK W. BENNETT, OF IOWA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF IOWA, VICE DONALD E. O'BRIEN, RETIRED.

SALVADOR E. CASELLAS, OF PUERTO RICO, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF PUERTO RICO, VICE JAIME PIERAS, JR., RETIRED.

DANIEL R. DOMINGUEZ, OF PUERTO RICO, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF PUERTO RICO, VICE GILBERTO GIERBOLINI-ORTIZ, RETIRED.

DEPARTMENT OF JUSTICE

DELISSA A. RIDGWAY, OF THE DISTRICT OF COLUMBIA, TO BE CHAIRMAN OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 30, 1994, VICE JAMES H. GROSSMAN.

DELISSA A. RIDGWAY, OF THE DISTRICT OF COLUMBIA, TO BE CHAIRMAN OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR A TERM EXPIRING SEPTEMBER 30, 1997. (REAPPOINTMENT.)

JOHN R. LACEY, OF CONNECTICUT, TO BE A MEMBER OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR THE TERM EXPIRING SEPTEMBER 30, 1995, VICE BENJAMIN F. MARSH, TERM EXPIRED.

DEPARTMENT OF STATE

RICHARD L. GREENE, OF MARYLAND, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF STATE, VICE JILL E. KENT.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 21, 1994:

NATIONAL COUNCIL ON DISABILITY

BONNIE O'DAY, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1995.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE NAVY

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 admiral

ADM. CHARLES R. LARSON XXX-XX-X...